

BIASED CHILD CUSTODY DECISIONS

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Biased Child Custody Decisions

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Abstract

This Paper presents the history of child custody, recent custody decisions, and some statistics that show how the fathers are treated unfairly in the court system with regards to gaining custody of their children. There will also be some recommendations to help with the bias that the courts are showing in awarding permanent physical custody of children.

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Chapter 1

Introduction

In the past our court system followed the laws of the land, and the laws of the land were put into place by people who followed their moral compass. Our nation was run by men who believed that a man had a right and duty to control the women they married and their children. In the 1700's women did not have a voice in the government. Women were supposed to be at home helping the family to thrive. A woman was good for cleaning, cooking, and childbirth. The father was the head of the household and was in command of the family. It was up to the father to make sure that his family had a good religious backing, the children had a basic education, and that there was food and shelter for the family. This view started to change during the industrial revolution. The United States began turning from the agrarian lifestyle to one where the father left the home to work and the mother stayed home to care for the children. "In 1842 New York's highest court, in the oft-cited *Mercein v. People*, went so far as to replace the common law tradition of paternal authority with a natural law argument in favor

of mothers, stating: 'By the law of nature, the father has no paramount right to the custody of his child.' (Mason, 1994, p. 60).

In the early days of our country divorce was practically unheard of so there was not a problem with child custody. It was not until the nineteenth century that divorce became more noticeable. Also around that time the thinking of our country started to change. According to historian, Mason, during the nineteenth century motherhood became in vogue. There were articles and books that told of the virtues of motherhood. It was a time when mother's shaped a child's life, not just the father (Mason, p. 51). This was not an overnight change. The women were starting to get recognized for the role they played in raising children, but for a woman to get custody was not easy. The law provided a tender-years provision so that the mother's could have custody of the child until they reached the age of five. Even though the slightest bit of un-lady like action on the mother's part and she would loose custody. Society took a very dim view of a mother who acted or dressed inappropriately. It was during the 1800's that child custody started to change from the father's right to mothers gaining custody. "Many states had divorce legislation that indicated that the party not a fault be awarded custody" (Mason, p. 63).

Just as a pendulum swings, so do views on child custody. At one time the pendulum was on the far side with our belief that fathers are the only parent that can raise a child. That women and children were mere chattel, and the men had the right and obligation to do as they saw fit in a family. This was how the country lived from the 1600's until the 1800's. Then the pendulum started to

swing in the other direction. Women were starting to gain some rights in the country. Once the women started to gain some rights they were able to gain custody of their children. While in the beginning of the struggle women had to walk fine line acting in a highly moral way, or the child could be taken from her and given to the father. The pendulum kept swinging with the women getting more and more rights when it came to custody of the child. Until a few years ago you could see the fathers who left courtrooms glad if they were able to get to have visitation with their children every other weekend. Fathers started to get viewed as unnecessary, they were needed to pay support for the child, but their presence with the child was not considered very important.

If a person looks back on society for the last fifty years they can see a subtle shift in how fathers are portrayed. At one time fathers were considered the bedrock of the family. They went to work to provide for the family, they knew how to raise children by being the strong leader the family needed. Mothers were viewed as staying at home; keeping house and they had the soft nurturing side for the care of the children. Television has changed societies view with shows like: The Family Guy, The Simpsons, and Two and a Half Men. The role the man plays in society has become marginalized which reflex on how the judges and courts see men and their ability to parent.

Statement of the Problem

The courts seem to be biased when awarding permanent placement of children to mothers. This strips the fathers of their rights to parent. When a husband and wife are married, they both have equal access to the child, but when there is a divorce often it is the man who loses time with the child. In the case of putative fathers, they may not have access to the child until the court orders the mother to allow visitation. Are the courts biased when awarding permanent placement of children or is it perceived bias?

Delimitations of the Research

The research will be conducted through the Kenosha Public Library, University of Wisconsin-Parkside Library, Karmann Libraries University of Wisconsin-Platteville. Primary searches will be conducted via the Internet through EBSCO Host and Wilson Web. Key topics include “fathers’ rights”, “custody rights”, and “putative fathers”.

Method of Approach

A review of literature related to research, studies, an anecdotal evidence of the history of court bias in awarding child custody, and the impact on families. The findings will be summarized and recommendations made.

Chapter 2

Review of the literature

History

The court system in the United States has been biased in one way or another when it comes to the custody of children since the beginning of hearing divorce cases. The courts started out with the view that only fathers had a right to the custody of the children. The father was the head of the household and his wife and children were chattel. A father had a right to keep earnings from his wife and children. According to Mason, it was not until the end of the 1800's that women in nine states started to gain equal guardianship rights (Mason, p. 57). Before that, if there was a divorce the women would loose not only her home, but also her children. The mother may not have been allowed to have visitation privileges with her children.

Divorce was frowned on in the past. To obtain a divorce you needed to show cause, some of the causes that would be allowed were adultery, and domestic violence. “[In the 1900's] when the wife is entitled to a divorce for the adultery of

the husband, she has an absolute right to the custody of the children, unless their good requires some other disposition (Mason, p. 113). The woman who managed to gain custody of a child had to behave in a very proper manner at all times or the child could be returned to the father. “Courts were so offended by adulterous mothers that they most often denied them visitation rights and cut off all obligations for support by the husband” (Mason, p. 63). It took women a long time to get to be heard in the court system it was a long struggle that started with women wanting to be treated equally. There were many reasons for the resistance of the courts to be fair in awarding custody. According to Mason, the California legislature was afraid that if a woman was to have equal custody of her children she may take them and leave home (Mason, p. 57). Why the courts would think a woman would take a child and leave home just because she has equal guardianship is absurd.

Fathers ruled for a few centuries in America when it came to the family. It was not until the Progressive Era that the courts took mothers seriously. “[The Progressive Era] maybe considered the historical nadir for fathers, who were disfavored in custody disputes and vulnerable to criminal prosecution if they fail to support their children” (Mason, p. 118-119). One reason for this change is the fact that life started to change. No longer did the country lead an agrarian lifestyle. People started to move into the cities, and the father would leave home to work while the mother stayed home to care for the home and children. “The trend saw the paramount rights of the father give way to the mother, who was

increasingly seen as the more nurturing and in a reversal of 17th century beliefs the more moral parent” (Mason, p. 163).

Recent Custody Decisions

Starting to look at more recent custody issues people can see that fathers have increasingly lost rights while the mother has gained rights. “Gender bias in the courts is a fact in Wisconsin. It has been documented by numerous studies, including the Gender Bias Committee of the Wisconsin Supreme Court” (Novak & Wessel, 2001, p. ix). It is not just fiction; the studies have shown there is a bias. “The bias against fathers can be found in the public media, in family court counselors, in judges, in guardian’s ad litem, and yes, even in their own attorney, who hold the same cultural expectations, yet who is supposed to represent them vigorously” (Novak & Wessel, p. ix). Nation wide bias is shown, it is not just Wisconsin that shows that there is a bias when awarding permanent placement of children. “Legislative inquiries in several states throughout the 1990’s overwhelmingly support the conclusion of the Colorado Supreme Court Task Force on Gender Bias. This task force examined hundreds of family court rulings and found ‘a clear preference for the mother.’ In fact the study team wrote a mother had to be ‘nearly dysfunctional’ not to win custody of her children” (Levin & Dachman, 1997, p. 27).

The role of the judge is not easy. “Perhaps no area of law is perceived to be as rife with gender discrimination as family law” (Wisconsin Equal Justice Task Force 1991, p. 190). The judge is in a very difficult position if both parents are fit and are doing a good job of parenting the children. “When deciding custody, a

judge is supposed to base the decision on facts. He or she plays the role of an impartial arbiter who listens to each side and then makes a decision. In reality, it is quite different. Most judges award custody to the mother and order the father to pay support” (Watnik, 2003, p. 48). It is not easy for any one involved in the custody issue. “Custody evaluators always bring their own opinions and preformed judgments to the process. If you do not present yourself well in the short time you have with the evaluator, the long-term results can be devastating” (Watnik, p. 53). The judges and guardian ad litem have the power to take away one of the parents rights to be with their children. With the bias that is shown in courts today that parent is usually the father. “Despite judicial pronouncements of gender equality in custody decisions..., the de facto reality is a strong bias toward awarding child custody to the mother. In some jurisdictions, mothers gained custody in 90% of the divorce cases” (Mackey & Immerman, 2003).

Fathers’ rights groups have started to form to fight what men are encountering in the court system. These groups are there to help men with the problems they are facing as they go to court to get shared custody of the children produced in a marriage or in an out-of-wedlock birth. “Fathers’ rights organizations, which rapidly spread in number during the 1900s in the United States, call direct attention to the consequences of the 27.5% of all American children living with only one parent in 2003” (Crowley, 2007). The fathers’ rights groups can help men with referrals to lawyers who are willing to fight for their rights. “Numerous gender-bias task force reports from around the country recognize that fathers’ lawyers often push them into stipulated agreements that result in far less than they

would get had the father gone to trial” (Novak & Wessel, p. 40). Since lawyers are members of the community they can have the same stereotypes as the rest of the population. Men need to find lawyers who will fight against stereotypes. According to Novak, one example of gender-bias is that mother’s roles are seen as nurturing, while the father’s role is seen as unimportant” (Novak & Wessel, p. 56).

With all the cultural bias how can a father fight for the rights he has to his children? When the judges and even the fathers own attorney may hold to the stereotypes of the country, what is the best way to deal with the problem of custody rights? According to Novak, twenty years ago feminists said you had to work twice as hard as a man to get half the pay. Now fathers need to work twice as hard to get any consideration of getting custody from a mother (Novak & Wessel, p. ix). This fight starts from the very beginning of the divorce. There are things that you should and should not do to prove that you, the father, have just as much right to have custody of the children as their mother. When two people are married they share equally in the right to parent the children produced in the marriage. It is not until the problem of divorce comes along that the fathers find that they are considered second class citizens. “If you want to gain custody of your children, or even gain appropriate parenting time, you must communicate to your wife, to the guardian ad litem, to the court counselor, and the judge, that you have unlimited stamina to litigate until you get justice” (Novak & Wessel, p. 6). A father who is willing to go all the way is more likely to gain more time with his children. According to Novak, one of the worst judges a man can have is a 55 to

65 year-old male. Often those judges look at the woman as a daughter that needs to be protected. A female judge is often better for the father, the female judge does not hold with the same stereotypes for women (Novak & Wessel, p. x).

The courts in the past used the tender years rule when awarding custody of children. This more or less meant that the young child should stay with their mother until they reached an age when a father's strong personality would benefit them more than the mothers nurturing role. That has been supplanted by the best interest of the child. "That rule of thumb sounds laudable, but is so vague that the outcome of every case is unpredictable" (Emery, Otto, & O'donohue, 2005). Today the courts are using the best interest of the child as a rule of thumb. "When deciding where children should physically be placed, judges must consider the child's best interest, such as each parent's capacity to contribute to the child's physical and mental health, emotional and spiritual well-being, and intellectual growth" (Crowley, 2007). According to Levin, there are different elements that go into gender bias in the courts. One reason is the ideal of motherhood. Father's are not nurturing, a child needs their money more than the loving role they play. Another fallacy is that fathers do not want the day to day responsibility of caring for their children (Levin & Dachman, p. 40). It is the judge who determines what is in the best interest of the child, and as stated in other parts of this paper judges can be biased in their views according to the stereotypes of the community they live in. "[I]n 1993 the Supreme Court readily assumed the '[t]he best interests of the child,' a venerable phrase familiar from divorce proceedings, is a proper and feasible criterion for making the decision as to which of the two parents will be

accorded custody” (Meyer, 2006). Part of the stereotype is the perception that the mother is at home with the children and does the day to day care of the child. The courts assume that the father goes off to work and spends little time with the children. “A father must legally challenge any attempt to use past role functions exclusively in determining custody, because this is a form of gender bias and it is not permitted by law” (Novak & Wessel, p. 57). Once the marriage is over the role of both parents must change to meet the new demands of the family. Today there are not many stay at home mothers, usually both parents hold jobs outside the home. This means that the children are not in the sole care of just their mother, they are in school, daycare, or at babysitters homes. Both parents spend time with the children after their work day is finished. According to Novak, the father can argue that in the past he was with his children on a daily basis so the judge should order placement with him so as not to disrupt the child’s life (Novak & Wessel, p. 57).

There are many steps in the divorce process, and a father needs to understand each step so that they do not make a mistake that would ultimately take away any time that they may have with their child. The steps are from the first summons all the way up to and including appealing the final ruling of the judge. “Do not move out just because your children’s mother asks you to. Stay put. It can have an adverse effect on divorce, alimony, property division, custody, visitation, and child support” (Gross, p. 26). If the father is on the lease or mortgage they have every right to be in the home. A person has to have a court order to make the other parent leave. “You will have a hard time convincing a judge to give you

custody if you left the children with their mother in the marital residence” (Gross, p.26). Judges do not want to disrupt the children any more than the divorce already has. So if you leave the child with the mother why should the judge decide to change this later on? The home may be a very tense place for the partners, but the fathers need to make sure that they never show any aggression against the mother. They need to act in a manner that shows them to be above board at all times. They can never let their emotions rule them if they want the ability to gain custody of the children. According to Levin, the father needs to show they are involved with their children. They can do this by going to school functions, meet teachers, know who their children’s friends are, get involved in every aspect of the child’s life (Levin & Dachman, p. 77). A father must go farther than the mother when trying to gain custody. According to Novak, fathers need to address the status quo issue of custody. He must voice that once divorced he will have to do all the domestic work plus hold a job even if the children are not living with him. He also, needs to voice that the mom will be working outside the home, so she will not be in the home with the children as much” (Novak & Wessel, p. 57). One point to think about is mediation. If the two parents can come to terms on custody there will not be a need for litigation. This can save each parent involved some money and aggravation. If mediation does not work and you actually go to trial be prepared for battle. According to Novak, trial pressure is put on the party that is getting the short-end of the recommendation. This happens until you enter the court room. Judges try to be fair so there is less chance of one person appealing the decision (Novak & Wessel, p.25). This

process can be very expensive and it will drain a person emotionally. According to Novak, during the divorce proceedings the children will have a guardian ad litem appointed to make sure the decisions go with the best interest of the child (Novak & Wessel, p.22). With every step of the divorce process the parents have the right to appeal a ruling if they do not feel that they are being treated justly.

Once custody papers are being drawn up the worry is not over. According to Gross, the father needs to be careful of the wording, the document can be titled joint legal custody, but in the agreement the wording can take away a father's rights to the point of a small visitation schedule (Gross, p. 59). Be sure the lawyer explains point by point what the wording in this document means. Do not sign anything that is not what you want.

Putative Fathers

A putative father is the father of an out-of-wedlock birth. A putative father's rights are not as strong as if they had been married to the child's mother. There are things that a man must do if he is to get custody, or shared physical custody of a child born out-of-wedlock. "In 1983, the United States Supreme Court warned that the parental rights of unmarried fathers are perishable. For single dads, this court ruled, fatherhood is an 'opportunity' that a father who wishes to participate in his child's life must 'grasp' in a timely manner" (Levin & Dachman, p. 45-46). It is here that bias truly exists. According to the Census Bureau, 18 million U.S. children live in single-parent homes. Only 3.5 percent of these kids live with their dads" (Levin & Dachman, p. 45-46). It is possible for a woman to give birth, claim she has no knowledge of the identity of the father, and give the child up for

adoption. The man may never know that the woman was even pregnant if she moved away and they had no contact. In the state of Wisconsin there are steps a man can take to help establish the rights of paternity. “In an attempt to protect the newly recognized rights of unwed fathers, some states instituted a putative father registry where men can report their biological connection to a child and in return receive notice of legal proceedings involving that child” (Gonzalez, 2006).

Wisconsin’s putative father registry is called a Paternal Interest Registry. This putative father registry information is not widely known. One of the things a man in Wisconsin can do is contact “Carol Rodriguez, from the Bureau of Programs and Policies, Division of Children and Family Services” (Paternal interest registry, 2007). There are forms that can be filled out if he believes that he could possibly be a father. These forms can be obtained through the Department of Health and Family Services. If a man goes to the website:

<http://dhfs.wisconsin.gov/children/PatIntreg/index.HTM> they will be given all the information needed to learn about the father’s rights. At least if the father has been listed on this registry, if a woman puts a baby up for adoption there will be a record of who the father could be, and the father will be notified before any adoption takes place. “The best person to bring up a child is the natural parent. For unwed fathers of infants in the United States, this principle is not readily accepted” (Gonzalez, 2006). How can a man be a father to a child when the mother of the child does not allow visitation. According to Gonzalez, the Supreme Court has not given states proper guidance on the treatment of putative fathers, some states give adequate protection while other states give poor

protection to the father (Gonzales, 2006). This protection is emphasized nicely by Gonzalez, “A putative father who has established a substantial relationship with his child and provides support for her – conditions the Supreme Court says establishes an unwed father’s parental rights to his child – may nonetheless lose those rights without a hearing if he is simply unaware of the state’s requirement to register on its PFR” (Gonzalez, 2006). The woman who carries a pregnancy to term never has to notify a man that he has fathered a child; this takes away a father’s rights to parent their child. As long as the woman can support the child without any assistance from the state she does not have to name a father. If the woman needs state assistance the state will want the name of the father to get the father to shoulder his share of the responsibility. This does not mean that the father can be found, some women may not know who the father is because of the life style she leads. According to the Wisconsin Equal Justice task Force there is a legal presumption of custody with the mother until paternity is adjudicated, these forms clearly make gender-biased assumptions that women will parent after adjudication and men will pay. This we conclude is unacceptable (Wisconsin Equal Justice Task Force 1991, p. 205). The woman also has another alternative to not alerting the father of the birth of the baby and that is the safe haven law. “Safe haven laws not only deprive fathers who do not know they have a child an opportunity to find out, but also deny men who know they are fathers and have taken affirmative steps to parent (such as providing prenatal financial and emotional support to the mother) their right to due process” (Gonzalez, 2006).

The putative father seems to be at the whim of the child's mother to find out if they are even a parent.

Wisconsin Family Law Reform 2000

The state of Wisconsin has tried to become friendlier when it comes to child custody. "On October 27, 1999, Wisconsin Gov. Thompson signed into law significant family law changes" (Novak & Wessel, p. 73). The family law reform was part of the budget bill. This reform helps family courts with guidance when it awards placement of children. While this goes a long way in helping fathers gain more time with their children, it does not go far enough. According to Novak, one of the parts that seems very good is they will create a legislative council to study the role of the guardian ad litem, if they should be required for all custody cases or if a non-attorney can fill the role (Novak & Wessel, p.75). Another part of this law that actually helps fathers is that according to Novak, if a parent withholds the visitation of one parent by either planning activities for the children during the other parents time with the child, or not allowing the visit for a variety of reasons that parent can be fined and placed in jail (Novak & Wessel, p. 75). This has happened in the past, one parent decides to get back at the other parent by planning extracurricular activities for the children when they should be with the visiting parent. Some others have actually left with the children if the father was one minute late for the pick up time. Some mothers say the child is sick and can not leave the home. The mothers are doing this seemingly to get back at the father of the child, they have some unresolved anger issues and this is how they can take revenge. "Before the Wisconsin Family Law Reform according to the

Wisconsin Equal Justice Task Force judges would incarcerate fathers for violating custody decisions more than they would incarcerate a mother” (Wisconsin Equal Justice Task Force, 1991, p. 32). Now with the new law the mother can be taken into court and the judge can fine or place the mother in jail for interference. This law was part of the budget bill. “The changes in Wisconsin Family Law may be found in their original language and in their entirety at the following Internet site: <http://www.legis.state.wi.us/1999/data/acts/99act9.pdf>” (Novak& Wessel, p. 76).

Statistics

Some people may think that fathers are not vital to the job of parenting. They may just think that the father’s role is check writing, and occasional visits are enough contact with their children. The statistics show otherwise. For those who try to say that women can raise a child alone here are some sobering statistics: “Children from fatherless homes account for: 63% of youth suicides, 71% of pregnant teenagers, 90% of all homeless runaway children, and 85% of all youths sitting in prison” (Statistics). After looking at just the few statistics here how can anyone say a mother alone can raise a child, that the father is not an important aspect of the child’s life? That the father needs only to give child support and visit occasionally. If more fathers were allowed to be involved in their child’s life some of the problems society is facing with regard to our youth my just go away. This is not to say that one parent is not able to raise a child, but instead the ideal is for a mother and father to be involved in the child’s life. A child needs balance that both parents bring to the nurturing into adulthood and beyond.

There are statistics about fatherhood; this may surprise a few people. After hearing for years how irresponsible and uninterested fathers can be, is there any doubt as to why the courts who have the same prejudice as the rest of society do not insist on fair custody arrangements. “The state of fatherhood: 37.9% of fathers have no access/visitation rights, 40% of mothers reported that they had interfered with the non-custodial father’s visitation on at least one occasion, to punish the ex-spouse, a clear majority (70%) of fathers felt that they had too little time with their children” (Statistics). To keep 37.9% of fathers from their children is a crime. Even if you take into account that some of the fathers may be incarcerated this is a statistic that is shameful. Even a father who is accused of abuse should be able to have closely supervised visitations, so that they can try to mend the relationship. Hopefully with a therapist the relationship could be salvaged for the sake of the child.

Each state has different rules governing child custody. What seems to be the case is the fact that the father is not normally the sole placement provider. “For example, a Stanford study of 1,000 divorced couples selected at random found that divorcing mothers were awarded sole custody four times as often as divorcing fathers in contested custody cases” (Kuhn & Guidubaldi, 1997). This shows a clear bias against fathers. If there was any parody the numbers would be much closer.

Chapter 3

Recommendations and Conclusions

Recommendations

There are many things that need to be addressed to fix the problem of bias when the courts award permanent placement of children. The judges and guardian's ad litem need to be educated in the belief that the father is as important in the child's life as the mother. That it is not only the child support that a father usually supplies that the child needs. The child needs to be with the father as much as the mother. Both parents provide a special role in a child's life. The father has as much right to have fifty percent placement time as the mother. It would be nice if the guardian ad litem would be trained in social work, and had a basic understanding of what the best interest of the child really was. The guardian's ad litem at this time are usually new attorneys who do not have the experience that is so necessary. While the attorney has a basic knowledge of the laws they are not trained to deal with the emotional roller coaster the child is going through. Even the social worker needs to be trained to stay neutral and impartial even though their social stereotypes and preconceived ideas are leading towards the mother.

The laws need to be changed; it would be nice if there was a federal law that had child custody the same from one state to another. There never will be a single right way to deal with the issue of child custody, with each family having different needs. The ideal would be, if both parents are fit to parent, it should be mandatory that the parents of the children live within a commute distance of each other until the children are out of school, and that each parent share custody, with each parent having alternative weeks. The parents can use the schools and

daycare centers to transfer children. These are neutral sites for the transfer. By sharing the responsibility of parenting the child will benefit by having both parents actively involved in their lives. “Perhaps most significant, joint custody also removes the capacity for one spouse to hurt the other by denying participation in raising the children” (Kuhn & Guidubaldi, 1997). The courts can make exceptions when both parents would prefer an alternative approach, but it should have to be proven that the alternative would benefit the child, not the parent. After all it was the parents who decided to have the child; it is now up to them to make sure that child’s life will be the best possible life they can provide. “If divorcing parents are unable to agree on a shared-parenting plan, the courts would order a plan that would afford both parents equal physical time and decision-making power: (Thompson & Sacks, 2002). Communication is vital in shared parenting; the parents need to put aside any issues they may have between them, and work at how best to raise the child. A better solution according to Gardner would be that the court requires parents to figure out a plan that suits them, on how they will communicate, to make shared parenting work (Gardner, 2001).

Putative fathers need to have information on how to register on one of the putative father registries. Single men need to be involved from the time of the women’s pregnancy and they need to help support the child from the beginning of when they are told of the child’s birth. The federal government needs to step up and set federal guidelines concerning putative fathers. The women need to be held accountable for the information of paternity. Gaps in the law such as the safe

haven laws needs to be fine tuned so that the birth father can be notified of the birth of the baby to see if he would like to raise the child. After all it is his child and he has as much right to raise that child as the mother.

Conclusion

The beginning of this paper asks if the courts are biased when awarding permanent placement. Is it a perceived bias, or is this something that is actually happening in the courts. After reading this paper the only conclusion that should be drawn is that the courts are biased. If the courts showed an equitable finding in awarding permanent placement of children there would be more fathers with custody. There would not be 37.9% of fathers who do not have access to their children. Since the mid 1900's the courts have looked more and more at fathers as checkbooks, not as important role models for the child. Even though the statistics show that the child needs a father's guidance. The statistics show that children who live without fathers are more likely to be school drop-outs, serve time in jails, and end up being more sexually promiscuous. Our children are bearing the brunt of the misguided social stereotype that the father is not able to care for children. The courts are getting better when they set the visitation schedules for fathers. Most fathers now do not walk away with just two weekends a month, but it is not equitable with the time the mother has with the child.

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they are told of the child's birth. The federal government needs to step up and set federal guidelines concerning putative fathers. The women need to be held accountable for the information of paternity. Putative fathers have even a harder time gaining visitation with their child, because a woman can hide the fact of who the father of the child is. A putative father can be deceived easily about their paternity. The father of the child must show that he supports the child to be able to have a standing in the court. If the mother does not allow the father to have access to the child how is he supposed to help to get standing in court? Putative fathers are at the mercy of the child's mother when it comes to visitation, until the father can go into court and the court settles the issue of visitation and paternity.

The laws of the nation need to become uniform from one state to the next. The country needs to understand that the father has as much right to parent the children as the mother. The way to do this is for the courts to grant shared physical custody with each parent having alternative weeks with the children as long as both parents are fit to parent. The putative fathers need to start demanding a fair time with their child just as the child born during a marriage would have. The country needs to come together and decide how to find the biological fathers of unwed mothers and give them equal access to their children.

If society decides that the interest of the children are more important than winning in a courtroom; that custody issues are not a way to punish a former partner for what ever the issue was that broke up the union; then society will come up with the laws that are equitable. The children will not have to suffer the lack of time they have with either parent. This will not be easy, to people who

have come to dislike each other to the point they can not live together will have to find a way to communicate effectively in the way they raise their child. Like anything else the truly important things in life are not necessarily easy. There is nothing that is more important than giving children a good start in life so that they can become well adjusted adults.

Addendum

The sources J. Novak and K. Wessel have been used frequently, because it was one of the books that dealt with custody issues in Wisconsin. J. M. Levin and K. A. Dachman were used frequently because the book they authored was primarily about Illinois. Since Wisconsin and Illinois are border states it seemed like a good idea to get the perspective of attorney's who practice in these states. They have brought a wealth of information, from their own practice, about what it is like go to court and fight for the father's rights to gain appropriate time to parent their children.

When dealing with custody issues the best interest of the children need to be of utmost importance. There can be no doubt when both parents are good at parenting that it is in the best interest to keep both parents involved in an equal amount of time with their children. The evidence shows how important a father's role is in raising well adjusted children.

Putative father's have an uphill battle at times just to find out that they are fathers, and to get equal time to parent their child. The laws need to be changed so that the biological father of the child has equal rights to his child.

There does not seem to be a study out that shows the sex of the judge hearing custody issues determines how they will rule. Wisconsin State Law Library could not find a study. James Novak claimed that from personal experience he has had in courts that female judges are more lenient towards fathers, while middle age male judges are more likely to rule in favor of the mother.

Appendix

Definition of Terms

Guardian ad litem “A special guardian (attorney), appointed by the court in which a particular litigation is pending, whose duty it is to represent children in family law. The status of the guardian ad litem exists only in the specific litigation in which the appointment occurs” (Novak & Wessel, p. 170).

Joint physical custody (placement) “The condition in which both parents have exactly 50/50 placement of their children” (Novak & Wessel, p. 170).

Legal custody “The right and responsibility to make major decisions concerning the child, except with respect to unspecified decisions as set forth by the court or the parties. Major decisions include, but are not limited to, those regarding the consent to marry, entering the military service, obtaining a driver's license, authorization for non-emergency health care, and permission to attend school events” (Novak & Wessel, p. 171).

Mediation “A cooperative process involving the parties and a mediator, the purpose of which is to help the parties by applying communication and dispute skills, and defining and resolving their disagreements, with the best interest of the child as a paramount consideration” (Novak & Wessel, p. 171).

Physical placement “The condition under which a party has the right to have a child physically placed with that party and has the right and responsibility to make, during placement, routine daily decisions regarding the child’s care, consistent with major decisions made by a person having legal custody” (Novak & Wessel, p. 172).

Primary physical placement “The person having the child more than 50.1% of the time” (Novak & Wessel, p. 173).

Putative father “Alleged biological father of a child born out-of-wedlock” (Gonzalez, 2006).

Reasonable visitation “This phrase often appears in orders regarding physical placement. The phrase is ambiguous because it does not guarantee any specific placement time. This phrase is, in essence, a 24 hour injunction, 365 days a year that prohibits the non-custodial parent from seeing the child” (Novak & Wessel, p. 173).

Temporary order “An initial order normally issued by a family court commissioner that includes matters such as placement of minor children, restraining orders, legislative instructions, who pays which bills, and child-support orders” (Novak & Wessel, p. 174).

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