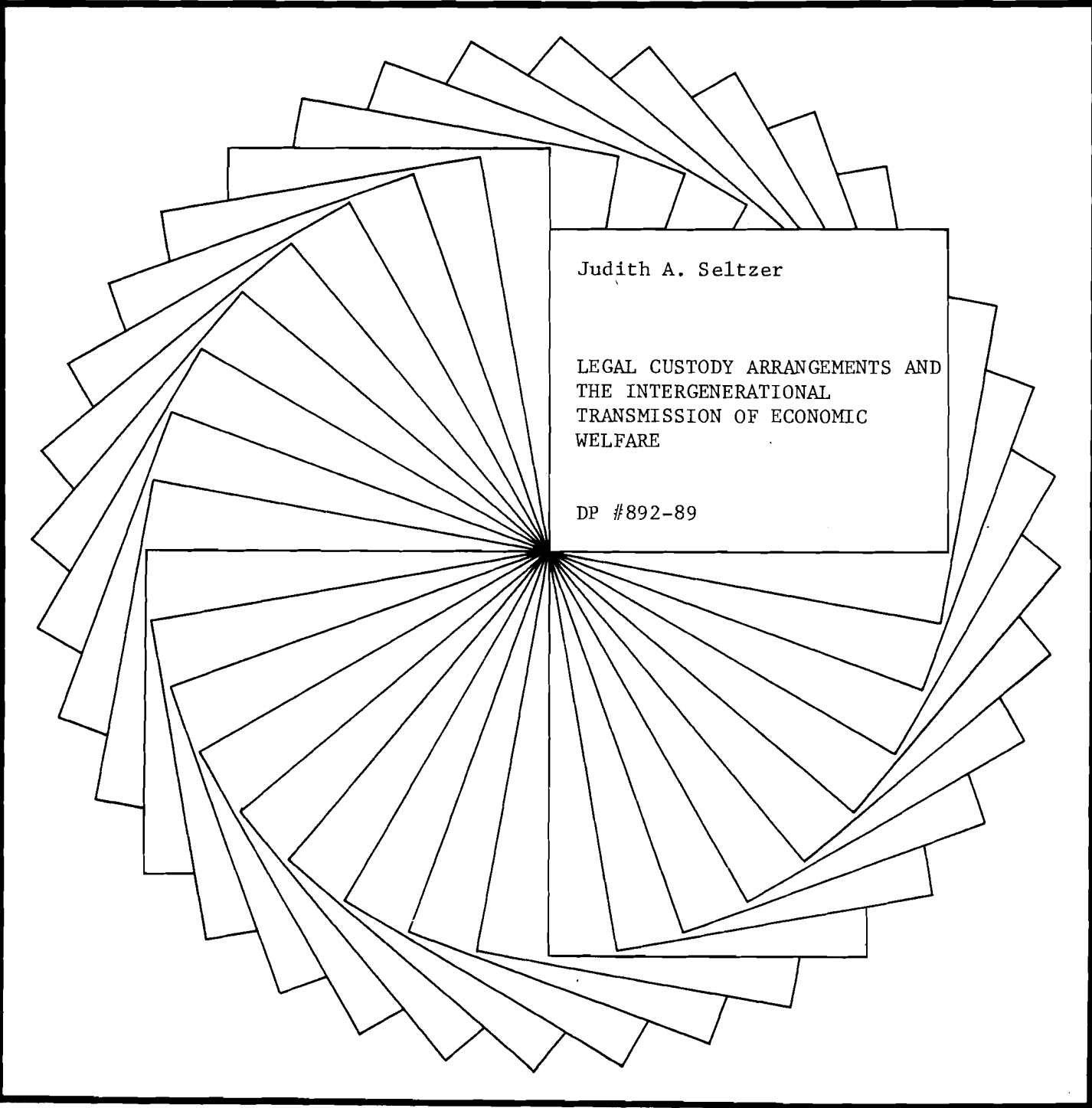


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# IRP Discussion Papers



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LEGAL CUSTODY ARRANGEMENTS AND  
THE INTERGENERATIONAL  
TRANSMISSION OF ECONOMIC  
WELFARE

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Legal Custody Arrangements and the Intergenerational  
Transmission of Economic Welfare

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## Abstract

Parents' responsibilities for children vary after divorce. Because children usually live with their mother, she provides most daily care, but parents may share authority over children through joint legal custody. This paper investigates the effects of legal custody arrangements on the amount of child support fathers pay after divorce, contrasting the experiences of families with joint legal custody and sole-mother custody. The paper argues that joint legal custody encourages similarities between the way divorced fathers and fathers in two-parent households invest in their children. The analysis uses data from a representative sample of recent divorces in which children live with their mothers (i.e., mothers have physical custody). The analysis explores the relationship between legal custody and legal child support obligations (awards) to set the stage for an investigation of custody effects on child support payments. Joint legal custody is associated with higher support awards, but the association between custody and awards is explained by the higher incomes of fathers with joint custody. Legal custody arrangements do not affect levels of child support payments, controlling for family characteristics and the amount of child support awarded at divorce. Legal custody does, however, alter the process governing fathers' contributions to child support. Parents' incomes have a larger effect, and child support awards have a smaller effect, on payments among families with joint legal custody. This suggests that joint legal custody may allow fathers greater discretion about how much to contribute to child support. By strengthening ties between fathers and children, joint legal custody may increase the correspondence between parents' and children's socioeconomic status and result in greater inequality among children of divorce.

## Introduction

Even in a society that values equal opportunity, children's welfare depends on who their parents are and the types of families in which they are raised. Both the structure of families and the patterns of family interaction associated with family structure affect children's opportunities. Investigations of family effects on economic inequality usually address three questions: Do children from various family structures differ in their levels of socioeconomic welfare? To what extent are differences in levels of welfare attributable to other factors that vary across family structures, such as socialization practices and access to resources outside of the family?<sup>1</sup> Finally, does family structure affect the degree to which parents and children resemble each other in their life chances and life styles? The notion that families differ in their ability to reproduce themselves has guided such diverse sociological pursuits as status attainment research, demographic studies of fertility, and functional theories about the nuclear family. Recently, high rates of divorce and remarriage have motivated researchers to compare children from single- and two-parent families using the framework outlined by these questions. Children's repeat transitions between two-parent, single-parent, and parent-steparent households complicate the conceptual and methodological problems of studying the consequences of family membership.

Families differ not only in their living arrangements but also in the legal obligations that bind parents and children together after divorce. Studies of families usually focus on those who live together because living arrangements reflect the physical setting and economic resources that directly affect children's welfare. The legal dimension of family relationships may also affect children's welfare. Within marriage, legal and physical custody coincide. After divorce, children's living arrangements (physical custody) may not correspond to the allocation of parents' legal authority to make decisions about their children's lives (e.g., decisions about health care and schooling). Parents may have joint legal custody and therefore

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<sup>1</sup>See, for example, Duncan and Duncan (1969), Jencks et al. (1979), Hetherington, Cox, and Cox (1982), McLanahan (1985), McLanahan and Bumpass (1988), Peterson and Zill (1986).

have equal authority over their children, even when only one parent lives with the children. How parents divide their legal rights and responsibilities for childcare may alter the extent to which living arrangements determine children's access to economic resources. Children from families in which parents share legal custody may be more involved with both of their parents, regardless of where they live, than children in families in which only one parent has legal custody.

This paper investigates the effects of custody on children's economic welfare after divorce by examining the relationship between alternate legal custody arrangements and the amount of child support fathers pay. In particular, the paper examines the effects of joint legal vs. sole-mother custody on child support payments among families in which children live with their mothers, the most common living arrangement after divorce. By exploring a factor that may mediate the economic disadvantages of living with a single mother, the paper extends research on the consequences for children of family structure. The analysis builds on previous research by examining whether custody differences in levels of child support payments can be explained by custody differences in parents' socioeconomic status or legal child support awards. It also contributes to an understanding of the consequences of divorce by investigating how custody arrangements alter the processes that govern parents' investments in children. These questions are important for social policy as well as social science. Although laws allowing joint custody of children after divorce have become more common, we have little reliable information about the consequences of joint custody. This paper uses unique data to explore the association between two outcomes highlighted in recent legislative reforms: joint custody and child support payments.

The next section argues that adoption of joint custody laws reflects the traditional American value of equality between families although it may have the unanticipated consequence of increasing inequality among children who experience divorce. The second section examines the importance of custody and child support for understanding the effects of family membership on children's welfare. I then describe the data used in this analysis. The

analysis is presented in two parts: an investigation of the relationship between legal custody and child support awards at the time of divorce and an investigation of the effects of custody on child support payments. The paper concludes with a discussion of the implications of the research findings for understanding equality in American families.

### **Implications of Joint Custody for Children's Opportunities**

Joint custody legislation stems from beliefs in equality of opportunity for children regardless of their family background, in particular, equality between children from single-mother and two-parent households.<sup>2</sup> Joint custody laws attempt to rectify the economic and emotional disparities between children who live with single mothers and children who live with both of their parents by increasing fathers' participation in childrearing after divorce (Stack, 1976; Schepard, 1985). Children who live with single mothers suffer material disadvantages; they are more likely to spend part of their formative years in poverty (Duncan, 1988) or suffer a dramatic decline in standard of living compared to their predivorce, two-parent household (Hoffman and Duncan, 1988). In addition to the loss of economic resources, children in single-mother households have less supervision from both their absent fathers and their mothers who struggle to maintain households on their own (Dornbusch et al., 1985; Hetherington et al., 1982; Steinberg, 1987). Both the economic and social costs of divorce affect children's life chances. Compared to children in two-parent households, children from divorced families who live with single mothers are more likely to drop out of high school (McLanahan, 1985), to pose discipline problems in school (Hetherington, Cox, and Cox, 1979), and to engage in delinquent behavior (Matsueda and Heimer, 1987). Joint custody may ameliorate some of the disadvantages of living in a single-mother household by diminishing the economic hardships of single parenthood through increased child support payments. Joint custody may also increase adult supervision by encouraging fathers to

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<sup>2</sup>Nearly all single-parent households are maintained by single mothers. Even among families with joint legal custody, most children live with their mothers (Maccoby, Depner, and Mnookin, 1988).

spend more time with their children. As a result, joint custody is likely to decrease inequality between children whose parents divorce and those whose parents remain together.<sup>3</sup>

Paradoxically, strengthening ties between fathers and children after divorce may increase inequality among children in single-mother households at the same time as it decreases the effects of family structure on children. Among families who live together, fathers' socioeconomic status affects children's values (Alwin, 1984; Kohn, 1977; Rubin, 1976), their health (Angel and Worobey, 1988; Fuchs, 1974), their progress in school (Sewell and Hauser, 1975; Gamoran and Mare, 1989), and their access to extracurricular educational opportunities (Heyns, 1978; Medrich et al., 1983). Fathers who do not live with their children have considerably less opportunity to influence their children's attitudes and behavior. By facilitating contact between nonresident fathers and children, joint legal custody may strengthen the effects of fathers on children. Whether or not this benefits children depends on fathers' characteristics.<sup>4</sup> Increased involvement with fathers who are highly educated and wealthy may enhance children's welfare, while contact with fathers who are poor may diminish children's economic welfare. Thus, an unintended consequence of joint custody legislation may be to strengthen the association between fathers' and children's socioeconomic status, thereby increasing inequality among children of divorce.<sup>5</sup>

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<sup>3</sup>For the same reasons, joint custody may also ameliorate the negative consequences of divorce by making children's lives after separation more similar to their lives before separation. This paper, however, focuses on the implications of joint legal custody for cross-sectional comparisons between children in single- and two-parent households. Assessing the degree to which joint custody alleviates the disruption caused by divorce requires before-after comparisons that are beyond the scope of this research.

<sup>4</sup>This argument parallels, to some extent, claims made by groups who oppose joint legal custody and liberal visitation policies because they expose children to fathers who are physically or emotionally abusive (Schulman and Pitt, 1982; California Senate Task Force on Family Equity, 1987).

<sup>5</sup>Family background affects children's welfare in a variety of ways. In particular, growing up in a single-mother household dramatically increases the likelihood that daughters will become single mothers themselves (McLanahan and Bumpass, 1988) and suffer the economic disadvantages associated with supporting children alone. Whether increasing fathers' involvement diminishes the intergenerational transmission of female headship is an empirical question. This paper does not attempt to assess the net effects on children's life

## Custody, Child Support, and the Intergenerational Transmission of Socioeconomic Status

That joint custody increases paternal involvement suggests that fathers with joint legal custody may pay more child support than those who do not have custody. The processes governing parents' financial investment in children may also differ for families with and without joint custody. This section outlines hypotheses about the effects of joint legal custody on child support payments. It takes account of the relationship between custody and legal obligations to pay support (i.e., the amount of child support awarded) to specify more fully the family and legal constraints affecting fathers' contributions to child support.

### Joint Custody and Child Support Payments

*Effects on Levels of Support Payments.* Advocates of joint custody claim that by increasing fathers' formal attachment to children through legal recognition of paternal rights, joint custody will increase the amount of child support that fathers pay. On the surface, these goals imply hypotheses about custody differences in the *levels* of involvement and child support contributed by nonresident fathers. The few investigations to date of the effects of custody on child support test these hypotheses by examining differences in time spent with children (Wolchik, Braver, and Sandler, 1985) and in the amount of support and the regularity of payments provided by nonresident fathers (Pearson and Thoennes, 1985; 1988). These studies generally find that fathers with joint custody spend more time with children and contribute higher levels of support than those without custody.<sup>6</sup>

*Effects on the Determinants of Support Payments.* While studies show higher mean levels of child support among families with joint legal custody than those with sole-mother

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chances of increasing the opportunities for paternal involvement after divorce.

<sup>6</sup>Related research shows a positive association between spending time with children and contributions to child support (Furstenberg et al., 1983; Seltzer, Schaeffer, and Charng, 1989). Fathers who see their children frequently have more opportunities to buy things for them, but the causal relationship between spending time with children and child support payments is complex.



custody, research has not investigated a key assumption underlying legislative movement toward joint custody – that increased paternal participation enhances the *effects* of fathers' characteristics on the structure of children's lives. Compared to fathers in families with sole-mother custody, fathers with joint legal custody may have greater discretion about how to fulfill their responsibilities to children. Fathers with joint custody may choose to spend more of their income on child support or on other resources that affect children's achievement (e.g., gifts, tuition payments, and trips to libraries), either because joint custody formally recognizes paternal responsibilities and "good" fathers provide for their children or because joint custody increases the informal benefits of paternity (Weiss and Willis, 1985). When fathers have lower incomes, joint custody may allow them to pay less child support than under other custody arrangements because they can more easily explain their financial constraints to their children or their former wife. Although acquiring joint legal custody does not, by itself, alter nonresident parents' responsibility to contribute to children's support, characteristics of parents who choose joint custody or the father's status as legal custodian may enable fathers to use greater discretion in fulfilling their economic obligations to children. This argument implies that joint custody conditions the effects of fathers' characteristics on the amount of child support children receive after divorce.

Increasing fathers' discretion about how much child support to pay may also strengthen the association between mothers' income and the amount of child support received. A mother's ability to earn income or the availability of a new spouse to supplement her income reduces the amount of child support from fathers that children "need" to survive. Previous studies demonstrate that child support awards (O'Neill, 1985; Teachman and Polonko, 1989; Seltzer and Garfinkel, 1989) and payments (O'Neill, 1985) depend, in part, on mothers' socioeconomic characteristics. Public opinion data also suggest that *both* parents' financial resources affect perceptions of how much child support fathers should pay (Schaeffer, 1989). Fathers with joint legal custody have more opportunities to observe their children's needs and to learn about the standard of living that the resident mother is able to provide for

them. In addition, mothers with higher incomes may be able to afford to forego more child support if the children's father provides for them in other ways such as buying things for the children when he spends time with them. These paternal contributions are more likely when fathers share legal custody. Consequently, the effect of mothers' income on the amount of support received may be greater among families with joint legal custody than among those in which mothers have sole custody.

*Are Custody and Child Support the Result of Common Causes?* The discussion thus far focuses on the causal relationships between custody and child support payments. The relationship between custody and child support, however, may also arise from common causes of each. Nonresident fathers with joint legal custody may pay more child support than those without custody if both custody decisions and support payments are the result of a third variable or set of variables. For example, families' socioeconomic status increases the likelihood of joint custody (Del Boca, 1986; Koel et al., 1988; Seltzer, 1988), and father's income increases child support payments (Beller and Graham, 1986; Cassetty, 1978; Hill, 1988). Thus, a positive association between joint legal custody and child support payments may occur because both custody and support depend on parents' socioeconomic status. Alternatively, parents' ability to cooperate with each other may also account for a positive association between joint custody and the amount of child support paid after divorce. Parents who want to share childcare may express these goals by choosing joint custody and sharing child support responsibilities through regular support payments. This interpretation, then, suggests that joint custody and child support payments have no causal association; rather, they are both the result of common predictors.

### **The Role of Child Support Awards**

Child support awards constrain support payments by establishing a legally enforceable lower bound to the amount of child support that nonresident parents must pay. The amount of support owed or awarded is a strong predictor of the amount of support paid among families with child support awards (Peterson and Nord, 1987; Beller and Graham, 1986).

Similarly, few families without awards exchange any child support, and when they do, the dollar amount is less than among those who have awards (Roan, 1989). Thus, a more complete understanding of the relationship between custody and support payments requires information about the relationship between custody and the amount of support awarded.

*Custody and Levels of Child Support Awards.* Parents decide about custody and the level of child support awards at the same time; divorce laws and judicial interpretations also explicitly link custody and child support arrangements in divorce settlements (Mnookin and Kornhauser, 1979; Wisconsin Statutes, 1987: 767.25). Not only are decisions about custody and support awards made in the same negotiations, but parents also exchange rights to custody and support as they bargain about their settlements. Mothers claim that they trade rights to support for sole legal custody of children (Arendell, 1986; Weitzman, 1985). If parents exchange custody or rights to children and support, families with joint legal custody are likely to have higher support awards than those in which mothers have sole legal custody, all else equal.

The causal relationship between parents' decisions about custody arrangements and support awards is ambiguous. Joint custody may determine the level of support awarded, if joint legal custody encourages fathers to agree to higher awards because their custodial responsibilities require them to continue in the "good provider role."<sup>7</sup> Or, mothers may seek higher levels of child support as a way of recognizing that both parents will share the social and economic responsibilities of childrearing. Alternatively, the level of support awarded may determine custody choices if fathers with high awards seek joint legal custody as a

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<sup>7</sup>In contrast, opponents of joint custody claim that nonresident fathers use joint custody as a way to avoid responsibilities (Fineman, 1988). Nonresident fathers may use the legal designation of custodian to argue that they contribute materially to childrearing and therefore should not owe as much child support as fathers who do not share custody of their children (California Senate Task Force on Family Equity, 1987). Studies of custody and support arrangements at divorce show little effect of joint legal custody on whether or not families have support awards when children live with their mothers (Pearson and Thoennes, 1985); however, among those with awards, families with joint legal custody have higher awards than those in which mothers have sole custody (Koel et al., 1988).

way to control how their child support contributions are spent. Finally, both custody and child support awards may depend on parents' predivorce attitudes toward childcare (e.g., when both parents value children and view their responsibilities as lifelong) or on parents' socioeconomic status. As noted above, joint legal custody is more common among those of higher socioeconomic status, and the amount of child support awarded at divorce depends on parents' incomes and their ability to provide for children's material needs. Families with joint legal custody, therefore, may have higher support awards because both custody and awards depend on the same family characteristics. Regardless of the causal relationship between custody and child support awards, differences in payments by custody type may be attributable to custody differences in levels of child support awarded at divorce.

*Effects of Custody on Compliance with Support Awards.* The importance of child support awards in determining how much support fathers pay is likely to depend on their legal custody arrangements. In particular, child support awards may constrain payments less when families have joint legal custody than when mothers have sole custody. Awards may have less influence on payments if fathers with joint custody have more discretion about how to participate in childcare by spending time with children and providing material support. The greater contact between fathers and children as well as between former spouses associated with joint custody allows fathers more flexibility to respond to changes in their own, and their ex-wives', economic circumstances. In addition, parents who share legal custody may be more willing to renegotiate child support arrangements outside of court than those who do not share custody because the former are likely to be more interested in cooperating about childrearing.<sup>8</sup>

Child support awards are also less likely to constrain the support payments of fathers with joint legal custody compared to those without custody if fathers with custody have

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<sup>8</sup>Previous research provides inconsistent evidence on this point. Ilfeld, Ilfeld, and Alexander (1984) find that relitigation rates are lower among those with joint custody than among those with sole custody, while Phear et al. (1984) find little effect of custody on the proportions of families who return to court to resolve financial disputes.

higher awards than they intend or are able to pay. Because child support awards and custody are the result of a negotiated settlement, fathers may promise to pay more child support as a strategy to gain joint custody without regard to whether or not they will fulfill this promise. Similarly, mothers may demand higher support awards in exchange for giving fathers joint legal custody, but fathers may be unable or unwilling to comply with their support agreements after the divorce. The effect on child support payments of the amount of support awarded, therefore, is likely to be lower among families with joint legal than among those with sole-mother custody.

### Data

The analysis uses data from a representative sample of Wisconsin divorce cases involving minor children. The dataset, the Court Record Database (CRD), includes detailed information about the legal aspects of divorce for a sample of approximately 4300 divorce and legal separation cases involving children who are potentially eligible for child support. The database includes abstracts from the record of the initial court contact, parents' financial records filed at the time of divorce, and records of payments that nonresident parents make to the Clerk of Courts. The sample includes cases regardless of whether parents had stipulated or legally contested custody settlements. The divorce case or family is the unit of analysis.

The CRD sample design reflects the organization of the child support system in Wisconsin, which is administered at the county level. Within counties, the sample frame for the CRD includes family court cases involving support-eligible children (i.e., cases with minor children who have two living parents). This paper uses data from five cross-sectional samples of divorce cases which entered the court system between July 1980 and June 1985. The cases were sampled from 22 counties.<sup>9</sup> This analysis uses data from the first 12 months after the

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<sup>9</sup>The sample includes observations from 22 counties for the years 1980 through 1984, and a subset of 20 counties for the years 1984 and 1985. Two counties, LaCrosse and Milwaukee, were only sampled in the early years of data collection because of changes in counties' willingness to participate in the study and

final divorce judgment (or temporary order, if the case did not have a final judgment).<sup>10</sup> (For a more detailed discussion of sample design, see Garfinkel et al., 1988.) The pooled cross-sectional sample includes 4327 cases. From these, I excluded 42 cases (1 percent of the sample) because custody was not assigned or there were errors in the child support payment information. The analysis uses data from 3527 cases (82 percent of the remaining sample) in which mothers had sole legal and physical custody or parents shared legal custody and mothers were the primary physical custodians.

Using data from a single state to investigate custody and child support practices has the advantage of limiting variation in the legal environment affecting custody decisions. For the period represented by cases in the CRD sample, Wisconsin law allowed joint custody when it was in the best interest of the child (Wisconsin Statutes, 1985: 767.24). While most other states also have joint custody laws, there is wide variation in the content of the laws and in their implementation (Freed and Walker, 1987). The Wisconsin CRD improves on previous state-based samples by including cases sampled throughout the state rather than restricted to one or two counties (e.g., Weitzman, 1985; Maccoby et al., 1988; McLindon, 1987; Koel et al., 1988).

On the other hand, a disadvantage of using data from Wisconsin is the inadequate representation of large urban areas. Because child support practices may depend on community size (Chambers, 1979), the analysis includes variables indicating the county in which a case was heard. Preliminary analyses show very few significant differences in custody arrangements or child support awards and payments between Milwaukee County, the state's largest urban area, and smaller counties. Wisconsin also has a much smaller population of blacks

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elements of the design affecting the project's larger goal, evaluating the Wisconsin child support reforms. (See Garfinkel, 1988, and Garfinkel and Uhr, 1984, for a discussion of the reforms.) These elements are not relevant to the substantive issues addressed here. Cases from all 22 counties are included in this analysis to increase the number of joint custody cases. All analyses reported below include dummy variables indicating the county in which cases were heard as well as the year of initial observation.

<sup>10</sup>Approximately 14 percent of the analysis subsample did not have a final judgment during the period of observation.

and Hispanics than the United States as a whole. The data, therefore, are more appropriate for generalizing to the U.S. white population's custody and child support arrangements than to minority populations. However, a previous analysis of divorce settlements in the Wisconsin CRD shows striking similarity between these state data and data from the Current Population Survey (CPS) for the entire United States on the limited information that is available in the CPS (Seltzer and Garfinkel, 1989). The unique combination of detailed information about custody arrangements, child support awards, and payments allows a more thorough analysis of these aspects of children's lives after divorce than has been possible for the nation as a whole. In addition, these data improve on those used in previous studies of the economic consequences of legal custody because the sample represents all divorces rather than a self-selected group of families who contested custody or agreed to divorce mediation.

### Measuring Custody

The CRD abstracts of divorce petitions and outcomes include reliable information about legal custody arrangements.<sup>11</sup> Physical custody is indicated by responses to the item in the data abstraction form: "Number of children living primarily with each parent." The court records require that physical custody be defined by whether children spend most of the year with either their mother or father or divide their time exactly equally between the mother's and father's households.<sup>12</sup> The first entry in Table 1 shows that 17 percent of the cases

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<sup>11</sup>The CRD information about physical custody arrangements, where children actually live after the divorce, is somewhat limited. In part, this is because parents and the courts assumed, until recently, that children would live with their legal custodian; therefore there was no reason to obtain additional information about physical custody. In addition, living arrangements and children's visits with a nonresident parent are usually the result of informal agreements that may fluctuate widely in the shortterm. The difficulty of taking into account these fluctuations may mean that it is easier for parents and courts to leave physical custody unspecified. However, Koel et al. (1988) find court documents for families with joint legal custody include more complete information about how much time children will spend with each parent than those with sole legal custody.

<sup>12</sup>A more sophisticated treatment would identify the physical custodian based on a continuous indicator of the amount of time the child lives with each parent. This would enable one to distinguish between families in

Table 1

Means and Standard Deviations: Legal Custody, Child Support  
Practices, Family and Case Characteristics.  
Wisconsin Court Record Database, Cases Entering 1980-1985.

Variable	<u>Sample Characteristics</u>		
	All	Joint Legal Custody	Mother Has Legal Custody
Legal custody (1 if joint; 0 if mother)	.172 (.377)	--	--
<b>Child Support Practices</b>			
Case has a support award (1 if yes)	.843 (.364)	.897 (.304)	.831 (.374)
Amount of award, all cases (thousands of dollars)	2.805 (3.469)	3.653 (5.065)	2.629 (3.007)
Amount of award, cases with awards* (thousands of dollars)	3.260 (3.293)	3.954 (4.997)	3.106 (2.754)
Amount of support paid, cases with awards* (thousands of dollars)	2.191 (2.727)	2.641 (3.711)	2.091 (2.445)
<b>Family Characteristics at Divorce</b>			
Father's annual income (thousands of dollars)	16.052 (10.240)	18.873 (13.455)	15.468 (9.335)
Father's income missing (1 if yes)	.267 (.442)	.192 (.394)	.282 (.450)
Mother's annual income (thousands of dollars)	8.202 (4.756)	8.361 (5.167)	8.170 (4.667)
Mother's income missing (1 if yes)	.188 (.391)	.164 (.371)	.193 (.395)
Number of minor children	1.77 (.875)	1.77 (.824)	1.77 (.885)
Age of eldest minor child (years)	7.27 (5.26)	7.45 (4.99)	7.24 (5.32)
Marital duration (years)	9.57 (6.52)	9.88 (6.02)	9.50 (6.62)



Table 1, continued

Variable	<u>Sample Characteristics</u>		
	All	Joint Legal Custody	Mother Has Legal Custody
<b>Divorce Case Characteristics</b>			
Both parents have lawyers (1 if yes)	.509 (.500)	.561 (.497)	.498 (.500)
Support automatically withheld from income (1 if yes)*	.167 (.373)	.174 (.380)	.166 (.372)
Number of months of payment data*	10.47 (2.99)	10.43 (3.10)	10.48 (2.97)
Unweighted N	3527	672	2855

Notes: \* denotes statistics calculated for the subset of cases with support awards. Unweighted n for all cases with awards = 2932; for joint legal custody = 576; for sole-mother custody = 2356.

Income and child support variables are coded in constant dollars using 1980 as the base year.

Standard deviations are in parentheses.

in this sample have joint legal custody while the remainder awarded sole legal custody to the mother. As noted above, all of the children in this analysis reside with their mothers, regardless of legal custody type.

### **Measuring Child Support Awards and Payments**

This study investigates two aspects of child support practices after divorce: the amount of support required by the divorce settlement and the amount of support paid as recorded during the 12-month period following the final judgment.<sup>13</sup> Support awards and payments include child support, family support, and maintenance.<sup>14</sup> Because Wisconsin requires that all child support awards be paid to the court and then distributed to recipients (Wisconsin Statutes, 1985: 767.29), these data provide more reliable estimates of official child support payments than are available from retrospective survey reports. Official court documents underestimate contributions to child support because they do not record payments or contributions the nonresident parent makes directly to the children, to the resident parent, or to third parties who provide the children with goods and services such as school fees or rent payments. Underestimates arise in two instances: when the courts approve parents' decisions to have the nonresident parent make periodic support payments privately, and when nonresident parents make extra payments, in addition to the periodic support that which children spent all of their time in the mother's household from those in which children spent extended periods, but less than six months a year, with their father. Identifying the physical custodian by a dichotomy may result in more misclassifications among families with joint legal custody than those in which mothers have sole legal custody because the former are probably more likely to arrange for children to live part, but less than half, of the time with each parent. Despite this disadvantage, these data provide better information about both legal and physical custody than is generally available.

<sup>13</sup>The support variables are annualized for cases observed for fewer than 12 months. Twenty-five percent of those who owe support have less than 12 months of payment data.

<sup>14</sup>Maintenance or alimony refers to payments that are made to help support the mother; family support refers to payments for the mother and children; child support is for children only. For recent divorce cases involving minor children, the distinctions among these types of support are largely a matter of evaluating tax benefits for the payor and recipient rather than issues related to parents' involvement in childrearing. Award and payment variables are measured in 1980 constant dollars.

they provide through the courts. For this sample, only 2.4 percent of the cases with awards have court-sanctioned private payment agreements (2.1 percent for cases in which mothers have sole legal custody, and 3.4 percent for cases with joint legal custody).<sup>15</sup> I exclude these cases from the analysis. Unfortunately, the CRD does not include information about extra payments that nonresident parents provide to support their children.<sup>16</sup>

Table 1 shows that most divorcing parents in Wisconsin have support awards; 84 percent of cases with either sole-mother or joint legal custody have some type of support award. The awards, however, are not very large, averaging approximately \$2,800 for the first year after divorce. Payments are also low; resident mothers with support awards receive an average of \$2,191 a year.<sup>17</sup> Table 1 also shows that child support arrangements differ for the two legal custody arrangements. Families with joint legal custody are more likely to have support awards than those in which mothers have legal custody (.90 vs. .83, respectively). Fathers with joint legal custody owe slightly over \$1,000 more than those in families in which mothers have sole legal custody. Among those who have support awards, joint-custody families

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<sup>15</sup>The difference by legal custody type when the data are weighted to take into account differences in the probability of sample selection is 3.0 versus 3.6 percent for mother and joint custody, respectively.

<sup>16</sup>In a recent survey of divorced mothers in Wisconsin, 22.8 percent reported that they received extra payments in addition to their regular child support, but only 7.4 percent of those who did not receive regular support payments received extra payments. Some portion of these extra payments may be made through the courts, but most are probably arranged informally outside the legal system. The percentage of cases who receive extra payments to supplement those channeled through the court system may be higher among families who share physical custody of their children.

The figures cited are from unpublished tables from the Children, Incomes, and Program Participation Survey (CHIPPS) conducted by the Institute for Research on Poverty at the University of Wisconsin-Madison. The data analyzed are described in detail in MacDonald (1986), Schaeffer (1989), and Seltzer et al. (1989).

<sup>17</sup>The Wisconsin data provide an estimate that is quite similar to the national estimate of \$1,944 (in 1980 dollars) for divorced women in 1985 (U.S. Bureau of the Census, 1989: Table B). The Wisconsin estimate may be higher because it refers to payments in the first year after divorce while the national estimate includes families who have been separated for longer periods. Child support payments decline the longer parents have been separated (Hill, 1985). The Wisconsin data also differ from the national data by including maintenance as well as child support.

have awards that are about \$850 more per year than mother-custody families. Payments follow a similar pattern. Among families with awards, those with joint legal custody pay approximately \$550 more a year. The average amount of support paid when mothers have legal and physical custody is only \$2,091 a year. In addition, there is considerably more variation in support payments among families with joint legal custody than among families in which mothers have sole custody. The standard deviation for amount paid is approximately 1.5 times larger for those with joint legal custody.

### **Independent Variables: Family and Divorce Characteristics**

The analysis considers the effects of socioeconomic status and family composition on custody, awards, and payments. Descriptive statistics for these characteristics are presented in the bottom part of Table 1. Socioeconomic status is measured by each parent's annual income at the time of the final judgment. By treating each parent's income separately rather than combining the incomes, the analysis takes into account the individual economic resources that parents can use to influence custody and support decisions. Fathers may use their income to acquire joint legal custody and to avoid child support obligations (i.e., lower the amount of child support owed). Alternatively, fathers who care about their children's economic welfare may use their higher incomes to support larger awards. Mothers may use their incomes to acquire sole legal custody as a way to protect their postdivorce autonomy. Mothers' economic resources may increase their ability to acquire larger support awards, although studies suggest that when mothers have higher incomes they are awarded less child support, perhaps because they are better able to support children as single parents (Seltzer and Garfinkel, 1989).

Approximately a third of the cases in this sample had missing information on either the mother's or father's income. These cases were assigned the mean sample income for mothers and fathers respectively. Cases with missing information on income are identified by dummy variables in the multivariate analyses reported below.

Table 1 shows that families with joint legal custody have higher average incomes of

both mothers and fathers than families in which mothers have legal custody. The difference by custody type, however, is much larger for father's income than for mother's income. Father's annual income at divorce is approximately \$3,400 less in mother-custody families than joint-custody families, while the difference in mother's income is less than \$200 a year.

The analysis also includes several measures of family characteristics: the number of children 18 or younger in the family, the age of the eldest minor child, and duration of the couple's marriage. These variables indicate parents' involvement in childrearing and their investments in the predivorce family. Previous studies suggest that having older children increases father's chances of seeking custody (Weitzman, 1985), perhaps because fathers and older children have a longer history of sharing their lives. However, Table 1 shows little difference by custody type in the children's ages.<sup>18</sup> The number of children involved in the divorce case does not vary by custody type.

Aspects of the divorce process also affect child support and custody outcomes. Cases in which both parents are represented by attorneys may be somewhat more likely to seek joint custody. Divorce cases in which only the mother is represented are more likely to be cases in which the father has deserted the family than cases in which both parents have legal representatives. In addition, parents who are concerned about maintaining an equal division of joint investments, including investments in children, are likely to seek legal advice as a way of insuring their rights in a divorce settlement.

Finally, the analysis of child support payments includes a variable indicating whether or not child support is collected through immediate income withholding. Immediate withholding is a collection procedure in which child support payments are automatically deducted from the nonresident parent's income as soon as a child support award is established. Cases with awards administered by automatic withholding show higher payment rates than those in which nonresident parents themselves pay support through the Clerk of Courts (Garfinkel,

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<sup>18</sup>This analysis does not consider whether families are more likely to arrange for joint custody when sons are involved than daughters. The court records do not include this information.

1986).<sup>19</sup> Table 1 shows that cases with automatic withholding occur at about the same rate, approximately 17 percent, regardless of custody type.

### Analysis Plan

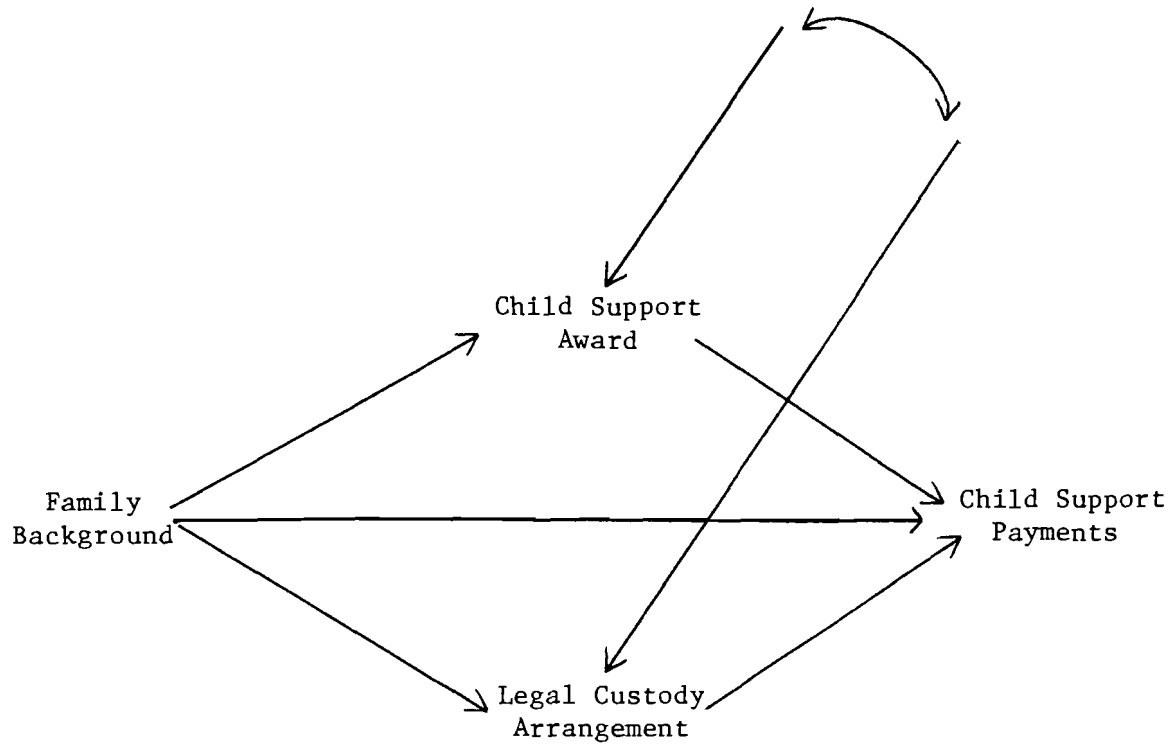
Figure 1 summarizes the conceptual model addressed in this analysis. I follow the convention of indicating causation by straight arrows and correlation by curved arrows. The diagram does not summarize hypotheses about custody differences in the effects of the independent variables on payments. The figure shows that child support payments depend on family characteristics, legal custody arrangements, and child support awards. The analysis is presented in two parts to take account of the intervening process in which custody and support awards are established. The first part of the analysis investigates this association between joint legal custody and the amount of child support awarded at divorce. I estimate simultaneously the effects of family and case characteristics on custody and child support awards. The model recognizes the joint determination of custody and child support decisions by allowing the disturbances for the custody and support award equations to be correlated. The analysis of custody and child support awards investigates whether families with joint legal custody have higher awards than those with mother custody. If so, custody differences in child support awards may explain higher support payments among families with joint custody. The second part of the analysis examines the effects of joint legal custody on the amount of child support paid among families with child support awards. It develops models of payments that take into account the hypothesis that the effects of parents' income, award

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<sup>19</sup>The effects of the collection procedure on payments can also be assessed by including two variables for the amount of support owed. One measures the amount owed through automatic withholding, and the other measures the amount owed through nonresident parents' direct payments to the Clerk of Courts. This procedure assumes that each case with an award uses only one collection procedure. Therefore, cases that pay the Clerk of Courts directly take the value 0 on the variable for the amount owed through withholding, and vice versa. This assumption is reasonable, according to informants in Wisconsin child support offices. The results of analyses using this alternate specification for the collection procedure are consistent with the results and conclusions about child support payments reported below.

Figure 1

Schematic Diagram of the Relationships among Legal Custody Arrangements, Child Support Awards, and Child Support Payments



amounts, and family structure may vary by legal custody type.

Because custody is a dichotomous variable in this analysis, the custody equation is estimated by a probit analysis (Aldrich and Nelson, 1984). Both of the child support variables, amount of support awarded at divorce and amount paid after divorce, are censored at the lower bound, 0. The analysis uses tobit analysis to evaluate the linear effects of the independent variables on support practices while taking into account the censored distributions on the dependent variables (Maddala, 1983). Parameter estimates from tobit models can be interpreted like OLS regression coefficients, the net change in the latent dependent variable expected per unit change in the independent variable. Two-equation models including tobits are estimated in HOTZTRAN (Avery and Hotz, 1985), and single-equation models are estimated in LIMDEP (Greene, 1988) using maximum likelihood procedures.

### Results: Custody Choices and Child Support Awards

Table 2 shows the determinants of joint legal custody and the amount of child support awarded at divorce as well as the joint association between custody and child support. The multivariate analysis shows that the relationships between family characteristics and joint custody are generally consistent with the patterns in Table 1.<sup>20</sup> When fathers have higher incomes, the probability of joint legal custody increases. Father's income also increases the amount of child support owed. Mother's income does not affect custody, perhaps because her income reflects two phenomena. On the one hand, mothers with higher incomes may

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<sup>20</sup>Examination of residuals indicated that the results of preliminary analyses depended on a few cases with extreme values on key independent variables such as parents' incomes. The results reported here use data in which extreme outliers were recoded to lower values that maintained the rank order of observations but provided more reasonable tails on the univariate distributions. The variables and number of values affected include: 4 cases on father's income, 7 cases on mother's income, and 1 case on the amount of support owed. This truncation does not bias the parameter estimates and provides more stable results than were possible with the original variables. The analysis that predicts the amount of support owed does *not* use the truncated variable because truncating the dependent variable provides biased parameter estimates; when amount owed is an independent variable, I use the truncated variable.



Table 2

Estimates of the Effects of Family and Case Characteristics on  
the Amount of Support Owed and Joint Legal Custody When Mothers  
Have Physical Custody. Wisconsin Court Record Database,  
Cases Entering 1980-1985.

Independent Variables	Dependent Variables	
	Amount Owed	Joint Legal Custody (1 if yes)
Father's annual income (thousands of dollars)	.186* (.454 x 10 <sup>-2</sup> )	.139 x 10 <sup>-1</sup> * (.259 x 10 <sup>-2</sup> )
Mother's annual income (thousands of dollars)	-.782 x 10 <sup>-1</sup> * (.101 x 10 <sup>-1</sup> )	-.891 x 10 <sup>-3</sup> (.602 x 10 <sup>-2</sup> )
Number of children	.829* (.143)	.0003 (.035)
No. of children, squared	-.074* (.026)	--
Age of eldest minor child (years)	--	.002 (.006)
Marital duration (years)	.067* (.007)	--
Both parents have lawyers (1 if yes)	.489* (.095)	.089 (.057)
Father's income missing (1 if yes)	-1.06* (.110)	-.348* (.076)
Mother's income missing (1 if yes)	.515* (.121)	.046 (.077)
$\sigma$	2.89* (.034)	1.00
$\rho$	.024 (.024)	
$\rho$ , zero-order	.137* (.022)	

Table 2, continued

Independent Variables	<u>Dependent Variables</u>	
	Amount Owed	Joint Legal Custody (1 if yes)
-2*log likelihood	18991.2	
Number of parameters	69	
Number of cases	3527	

Notes: Parameters for equation 1 are tobit coefficients; parameters for equation 2 are probit coefficients. The equations are estimated simultaneously with correlated errors. Models include controls for county and year of data collection. Standard errors are in parentheses.

Dashed lines indicate that the variable was omitted from the equation.

\*Indicates the parameter is at least twice its standard error.

use their economic resources to seek sole legal custody. On the other hand, mother's income may reflect an effect of education. Perhaps as a result of their more egalitarian gender-role attitudes (Mason and Lu, 1988), mothers with higher educations may be more willing to involve fathers in postdivorce childrearing through joint custody than mothers with lower educations. Consistent with findings from previous research, mother's income diminishes the amount of her child support award. Each thousand dollars of mother's annual income decreases the amount of support awarded annually by nearly \$80, while each thousand dollars of father's income increases the award by about \$290, other things being equal. The negative association between mother's income and the amount of child support awarded may reflect parents' and judges' belief that mothers with their own incomes can afford to support their children by themselves or "need" less child support.

Cases without information on father's income are more likely to have sole-mother than joint legal custody. Missing information on father's income may be more common in cases when the father does not appear at the divorce hearing than when both parents are present. When one parent does not appear, the other is more likely to receive legal custody of the children. In cases of desertion, the children are already in the mother's physical custody. For the same reasons, cases with missing information on father's income also have lower child support awards.

When both parents have attorneys, child support awards are higher. The number of children in the family increases the amount of child support awarded, but at a diminishing rate the more children there are. The number and age of children may not affect joint legal custody because the analysis controls for physical custody. Children's ages are more important predictors of physical custody than of legal custody (Seltzer, 1988).

The results in Table 2 show that socioeconomic status affects legal custody type as well as the amount of child support awarded at divorce. That nonresident father's income increases the chance of joint legal custody as well as raises child support awards accounts for most of the positive association between custody and child support awards. The zero-order

association between legal custody and the amount of child support awarded is .137. Once common predictors such as income are taken into account, there is still a very small positive residual association between joint legal custody and the amount of child support awarded ( $\rho = .024$ ), but the association is no longer statistically significant. These findings suggest that families with joint legal custody receive higher support awards because the fathers in these families have higher incomes. Once differences in income are taken into account, there is no statistically significant difference in the amount of support awarded between families in which mothers have sole legal custody and those in which parents share legal custody.<sup>21</sup>

### **Results: Effects of Joint Custody on Child Support Payments**

Table 1 shows that when parents share legal custody, the average amount of child support that nonresident fathers pay is about \$550 more per year than when the mother has sole legal custody. Differences in the amount of support paid may be due, in part, to the higher incomes of fathers in joint-custody families. Table 2 has already shown that differences in the amount of support owed can be attributed largely to the higher incomes of fathers with joint legal custody. In addition to compositional effects, joint custody may itself increase nonresident fathers' incentive to pay support or increase the benefits fathers derive from each additional contribution they make to child support (Weiss and Willis, 1985). As argued above, joint custody may also enhance the effects of socioeconomic status and family composition, and may diminish the legal constraint of the amount of support owed.

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<sup>21</sup>Analyses not reported here also show that custody differences in parents' incomes explain the higher probability of having a child support award among joint-custody families compared to families in which mothers have sole legal custody.

## Determinants of Child Support Payments

Preliminary analyses of custody effects on child support payments indicated several important interactions between custody type and family characteristics. Therefore, Table 3 reports the results of the tobit models of child support payments separately for each legal custody type. The table indicates the coefficients that differ across custody types at a statistically significant level; that is, the interaction coefficient in the pooled model is at least twice its standard error. Controlling for the amount of child support fathers owe, parents' incomes at divorce still affect the amount of support received in the first year after divorce. Father's income increases the amount of support paid, while mother's income decreases payments. Among families with joint custody, a thousand dollar increase in father's income raises payments by nearly \$38 a year, holding other factors constant; the same increase in income for mothers decreases child support payments by \$63. Within each custody type, an increase in mother's income reduces the amount of support she receives by nearly twice as much as the rise in payments from a comparable increase in father's income, holding other factors constant. This pattern is the opposite of that shown in the previous table, in which father's income has a much larger effect than mother's income on the amount of child support awarded. When both direct and indirect effects of incomes are taken into account, the data show that father's income increases payments slightly more than mother's income decreases them for both legal custody types. For families with joint custody, the total effect on payments of father's annual income is to increase payments by \$113 for every thousand dollars of income  $(.186(.405) + .038)$ ; the total effect of mother's income is to decrease payments by \$95 per thousand dollars of her income. For families in which mothers have sole custody, the total effect of a thousand dollar increase in father's income raises payments by \$118, while a comparable increase in mother's income decreases payments by \$76 a year. That father's income is a more important predictor of child support payments than mother's income suggests that his ability to pay is more important than children's need for support.

Table 3

Tobit Estimates of the Effects of Family and Case Characteristics  
on Amount of Support Paid in First Year by Legal Custody.  
Wisconsin Court Record Database, Cases Entering 1980-1985

Independent Variable	Type of Legal Custody		Test of Difference in Coefficients
	Joint	Mother	
Father's annual income (thousands of dollars)	.377 x 10 <sup>-1</sup> * (.125 x 10 <sup>-1</sup> )	.184 x 10 <sup>-1</sup> * (.249 x 10 <sup>-2</sup> )	sig.
Mother's annual income (thousands of dollars)	-.630 x 10 <sup>-1</sup> * (.244 x 10 <sup>-1</sup> )	-.342 x 10 <sup>-1</sup> * (.809 x 10 <sup>-2</sup> )	sig.
Number of minor children	.203 (.501)	.037 (.100)	ns
No. of minor children, squared	.027 (.107)	.018 (.016)	ns
Father's income missing (1 if yes)	-.379 (.346)	-.636* (.096)	ns
Mother's income missing (1 if yes)	-.294 (.342)	.183 (.095)	ns
Payments automatically withheld (1 if yes)	.663* (.311)	.349* (.129)	ns
No. of months of payment data	-.044 (.057)	-.063* (.018)	ns
Amount of support award (thousands of dollars)	.405* (.040)	.533* (.006)	sig.
Constant	.328 (1.04)	.929* (.294)	
$\sigma$	2.63* (.086)	1.78* (.011)	sig.
-2*log likelihood	2525.4	8962.0	
Number of cases	596	2407	

Notes: Sample restricted to cases with child support awards. Models include controls for county and year of data collection. The criterion for statistical significance in tests of differences across models is an interaction term with a coefficient at least twice its standard error. Standard errors are in parentheses.

\*Indicates coefficient at least twice its standard error.

Another measure of the need for child support, number of children in the family, increases the amount of support paid, but the increase is not statistically significant.<sup>22</sup> This finding contrasts with the effects of number of children on the amount of support awarded shown in the previous table. The data show that the number of children covered by a child support award affects payments indirectly, but not directly.

The amount of support awarded has a large positive effect on the amount of support paid among families with both types of legal custody. The magnitude of the coefficient for the effect of awards on payments indicates that a thousand dollar change in the amount of support awarded increases payments between \$400 and \$530 a year. Regardless of custody type, child support payments increase more as a result of increases in awards than of increases in fathers' incomes. The effect of the amount of the award reflects, in part, constraints imposed by the legal system. Child support awards also reflect an indirect effect of parents' incomes, as shown in the previous table.

The collection procedure affects the amount of child support paid. Families in which child support is automatically withheld from the nonresident father's earnings pay more support than those in which fathers pay support themselves. Finally, the data suggest a small reduction in payments toward the end of the first year after divorce. Cases observed for the full 12-month period pay slightly less support than those observed for part of the period.<sup>23</sup> The decline in payments over time is only statistically significant among families in which mothers have sole legal custody.

These results show that child support payments depend on parents' resources, children's needs, and the legal constraints of a child support award. The most striking finding is that

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<sup>22</sup>When the quadratic term is omitted from the model, the coefficient for number of children becomes statistically significant among families in which mothers have sole legal custody but remains insignificant among those with joint legal custody.

<sup>23</sup>Annual payments for cases with less than a full year of payment data were imputed using the assumption that payments in the second part of the year would follow the same pattern as payments in the first part of the year. The negative coefficient for the effects of number of months of payment information suggests that this imputation procedure overestimates the amount of support paid because payments decline over time.

the direct effect on payments of mother's income is larger than the effect of father's income, controlling for awards. However, once the effects of parents' incomes on awards are taken into account, the total effect of father's income exceeds the total effect of mother's income, regardless of custody type. This suggests that father's ability to provide support is more important in determining child support payments than mother's need for support, although mother's income probably does not index economic need as well as father's income indexes his ability to pay. That father's income has a bigger total effect on child support payments is also consistent with mother's larger in-kind contributions to childcare.

### **Interactions between Custody and the Determinants of Payments**

While the general pattern of effects of family and legal characteristics on payments is similar across custody types, the magnitude of effects differs considerably between families with joint legal and sole-mother custody. Parents' incomes have much bigger effects on payments among families with joint legal custody, while the amount of child support awarded affects payments more among those with sole-mother custody than those with joint custody. These differences across legal custody types are statistically significant. Fathers with joint legal custody appear to use more discretion concerning how much money to invest in children than fathers without custody. That the amount of child support awarded has a stronger effect on payments among families with mother custody also supports the view that families with joint legal custody are less constrained by the legal restrictions of child support obligations.

As is shown more fully below, these results imply that there is no important main effect of legal custody arrangement on the amount of support paid. Families with sole-mother and joint legal custody do not differ in the mean amount of child support paid in the year after divorce once other factors are taken into account. The higher average payments that other studies have found among families with joint legal custody may be attributed to the absence of adequate controls for socioeconomic differences across custody types.

Custody differences in the effects of fathers' and mothers' incomes on payments can be seen more clearly in a simulation. Table 4 shows the predicted amount of child support paid



Table 4

## Simulation of Annual Child Support Payments by Custody Type

Family Characteristics	<u>Type of Legal Custody</u>		Difference in Payments (J - M)	Income Ratio Mother/Father
	Joint	Mother		
All characteristics at sample means	\$2,263	\$2,219	\$44	.49
F's income HIGH M's income HIGH	2,514	2,328	186	.40
F's income HIGH M's income AVE.	2,726	2,473	253	.25
F's income HIGH M's income LOW	2,972	2,621	351	.11
F's income AVE. M's income HIGH	2,044	2,078	-34	.78
F's income AVE. M's income LOW	2,499	2,363	136	.21
F's income LOW M's income HIGH	1,905	1,998	-93	1.13
F's income LOW M's income AVE.	2,118	2,137	-19	.71
F's income LOW M's income LOW	2,341	2,277	64	.30

Notes: Parameters used in calculations come from within group models summarized in Table 3. Sample is restricted to cases with support awards. Income data refer to incomes at the time of divorce. Father's income and mother's income are evaluated at different levels. Other characteristics are held at the sample mean.

Income levels defined as: High = 1.5 standard deviation above the sample mean for cases with awards for fathers (\$31,915), 1 standard deviation above the sample mean for mothers (\$12,790). Average income = sample mean (\$16,501 for fathers, \$8,096 for mothers). Low income = .5 standard deviation below the mean for fathers (\$11,363), 1 standard deviation below the mean for mothers (\$3,402).

by custody type for families with various combinations of father's and mother's incomes. The simulation uses coefficients from the within-custody-type models summarized in Table 3. Income levels for parents are defined at the bottom of Table 4. The simulation uses a different standard to define fathers' and mothers' income levels to take account of sex differences in the distributions of income in this subsample. Other variables are evaluated at the sample means.<sup>24</sup> Figure 2 depicts the effects on child support payment of parents' incomes for each custody type as shown in Table 4.

The figure illustrates that father's income has a much bigger impact on child support payments among families with joint legal custody than among those with sole-mother custody. Especially when fathers have high incomes, those with joint custody pay more child support than those without custody. Fathers with high incomes pay between \$350 and \$190 more per year in child support when they have joint legal custody (Table 4, column 3). Among families in which fathers have lower incomes, the custody difference in support payments diminishes, and in some cases reverses, giving a slight advantage to children in mother-custody families.

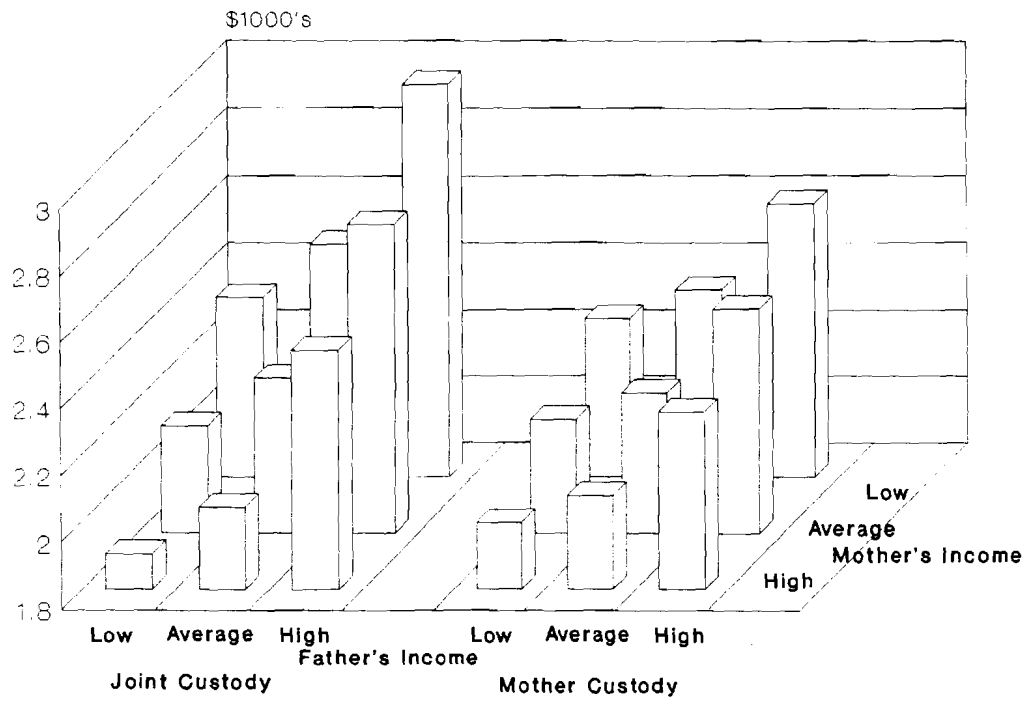
Table 4 shows that when both parents have average incomes, a very slight economic advantage results for children whose parents have joint legal custody. Nonresident fathers with joint legal custody pay \$44 more per year in child support than do fathers in families with sole-mother custody.<sup>25</sup> The economic advantage to children of joint legal custody increases when fathers have high incomes and when fathers' incomes are high relative to mothers' incomes. Children whose parents have joint legal custody appear to benefit more from their fathers' higher income than children in mother-custody families. These data also show that the economic benefits to children of joint legal custody depend on their

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<sup>24</sup>The means used in these calculations are for the subsample of cases with child support awards. The means differ slightly from those reported in Table 1 for all cases regardless of award status.

<sup>25</sup>The difference between the mean support payments predicted in this simulation and the observed means reported in Table 1 occur because the simulation takes into account the distribution of the latent payment variable to correct for censoring (McDonald and Moffitt, 1980).

**Figure 2. Effects of Parents' Incomes on Child Support Payments By Custody Type**



mother's income. In particular, when her income is high relative to father's income, children benefit more from mother custody than from joint legal custody. Figure 2 and the last column of Table 4 show that when mothers have high incomes relative to fathers, the joint custody advantage reverses, so that fathers with joint legal custody pay less child support on average than those in families with mother-custody. These findings suggest that inequality in parents' resources affects the consequences of legal custody decisions for child support payments. When fathers have more economic resources, relative to mothers, fathers may use these resources to acquire rights to children through joint legal custody. Once they have legal custody rights, joint custody may encourage fathers to invest more in their children than fathers who are not legal custodians. That the economic benefits to children of joint custody depend on inequality in parents' resources suggests that mothers' and children's interests do not always coincide.

These results also show that custody effects on child support payments are small compared to the total amounts paid, to the costs of raising children,<sup>26</sup> or to nonresident fathers' incomes. Fathers with joint legal custody who have high incomes and were married to women who had low incomes at divorce pay less than \$3,000 a year in regular child support payments. This is only about 12 percent more than the average amount that fathers without custody would pay under the same income conditions (351/2,972). Thus, while joint legal custody may be in children's economic interest when fathers have high incomes both absolutely and relative to mothers, the benefit is only worth \$30 a month in regular child support payments.

The results described thus far are consistent with the view that joint legal custody facilitates fathers' discretion about investments in childcare. Greater discretion results in inequality in child support payments, much of it attributable to variation among families in measured characteristics, particularly parents' incomes. Joint legal custody may also increase

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<sup>26</sup>Espenshade (1984) estimates that middle-income families with two children and a wife who works part-time spend \$82,400 to raise a child to age 18 (in 1981 dollars). This estimate does not include the indirect costs of raising a child, including income foregone as a result of providing housework and childcare services.

inequality among children in unmeasured ways. Annual child support payments vary more widely among families with joint legal custody than among those with sole-mother custody, even after differences in parents' socioeconomic status and child support awards are taken into account. A comparison of data in Tables 1 and 3 shows that measured characteristics reduce the variability in payments within custody types, but do not alter the ratio of variation between custody types. Table 3 shows that the standard error of estimate ( $\sigma$ ) for the joint custody equation is 2.63, or \$2,630 of child support, compared to 1.78, or \$1,780, among families with mother custody. This ratio, 1.48, is approximately equal to the ratio of the standard deviations in payments shown in Table 1, 1.52 (3.711/2.445). That the greater variability in payments among families with joint custody persists within levels of parents' incomes further supports the view that joint legal custody may encourage fathers to make child support contributions contingent on their own personal circumstances.

### Conclusion

These findings show the importance of parents' socioeconomic status for determining legal custody and child support obligations at the time of divorce. Fathers with higher incomes are more likely to acquire joint legal custody at divorce than those with lower incomes, controlling for mothers' income and various other family characteristics. Families with joint legal custody have higher average child support awards than those with mother custody, but income differences between families with different custody arrangements account for the higher support awards associated with joint legal custody.

The effects of custody on child support payments are more complex. Families with joint legal and sole-mother custody do not differ in the level of support paid after divorce, once other factors are taken into account. The legal custody arrangement does, however, affect the determinants of child support payments. When parents have joint legal custody, child support payments are more responsive to father's and mother's incomes than to legal constraints imposed by child support awards. My findings also show that even after differences in measured characteristics are taken into account, child support payments are more variable

among families with joint custody than among those with sole-mother custody.

The greater variability in payments associated with both measured and unmeasured characteristics supports the view that joint custody increases parents' discretion about how much child support to pay. However, the greater variation in payments may also reflect greater heterogeneity among families who adopt joint legal custody. Families with joint custody may adopt this arrangement because they prefer to cooperate in childrearing after divorce or as a solution to conflict about which parent should get sole custody of the children. Whether parents seek joint custody voluntarily or accept it as an unhappy compromise is an unmeasured source of variation in child support payments. Unfortunately, we have no direct evidence about parents' preferences concerning legal custody and how these vary among families whose divorce settlements allocate custody to both parents or only one.

In the absence of additional information, the findings reported here suggest that by strengthening the formal ties between nonresident fathers and children, joint legal custody may make divorced families more similar to families in which children live with both parents. Recognition of paternal rights may facilitate fathers' informal involvement in childrearing and provide fathers with more opportunity to share financial resources with their children. In addition, joint legal custody permits fathers to have greater flexibility about *how* to fulfill their economic responsibilities to children. This also increases similarities between children in single- and two-parent households because fathers who live with their children have wide latitude in decisions about how to invest in children (Espenshade, 1984; Lazear and Michael, 1988). Thus joint legal custody may increase equality between children from single and two-parent households, at the same time that closer ties between divorced fathers and children decrease equality among children who live with single mothers.

While these data show that children benefit economically from joint legal custody when their fathers have high incomes, the benefits are quite small. The data used in this analysis, however, may underestimate custody differences in child support payments because official court records do not document informal transfers such as gifts and payments to a third party

(e.g., payments for dental care, school fees). Fathers with joint legal custody are probably more likely to contribute informally than those without custody. Similarly, when parents have joint legal custody, children may be more likely to spend extended periods of time in their father's household even though they spend most of the year with their mother. The court records of child support payments, therefore, are likely to underestimate the effects of joint legal custody on child support payments. As a result, these data may underestimate inequality among children in single-mother households.

My findings also have implications for understanding inequality between women and men after divorce. The effects of legal custody on child support payments depend on mothers' and fathers' relative incomes. Joint legal custody increases support payments when father's income is high relative to mother's, but decreases payments when father's income is low relative to mother's. If income indexes parents' relative power, mothers who are more powerful may use their resources to acquire sole legal custody and to ensure higher support payments after divorce. When mothers are relatively less powerful, fathers may seek joint legal custody and then rely on their custodial rights to allow them greater flexibility in deciding how much child support to pay. Thus, joint legal custody enhances mothers' and children's economic welfare when fathers have relatively high incomes, but diminishes their welfare when fathers have lower incomes. Although joint custody legislation was initially designed to reflect and enhance equality between women and men (California Senate Task Force on Family Equity, 1987; Jacob, 1988), it may instead reinforce existing inequalities. Recent legislation affecting divorce is notorious for its unintended consequence of continuing inequality between women and men (see, for example, Weitzman, 1985). Joint custody legislation may also increase inequality among children of divorce by strengthening the link between fathers' and children's socioeconomic status.

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