

**Wisconsin's 2004 Shared-Physical-Placement Guidelines:
Their Use and Implications in Divorce Cases**

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Abstract

Using the Wisconsin Court Record Data (CRD), this report studies differences in child support orders and time-share placement before and after significant changes were made to the Wisconsin child support guidelines in January 2004. The new guidelines generally include lower child support orders at lower levels of time-share, and higher child support orders at or near the level of equal shared placement. We analyze whether there is evidence that the changes influence parents' behavior and divorce-case final judgments.

We find continued growth in shared placement in divorce cases, and declines in both sole-mother and sole-father placement, consistent with long-term trends in Wisconsin. We find a greater increase in unequal shared-placement cases, compared to equal shared-placement cases. We also find a long-term trend of declining litigation in divorces cases, in all categories except those with unequal shared placement. These findings suggest some parents could be influenced by the inadvertent financial incentives introduced by the 2004 guidelines. We also find continued low use of the guidelines in shared-placement cases, in general. A small increase in use was found for equal shared-placement cases, and a small decrease in use was found for unequal shared-placement cases. These differences are consistent with the effects of the new guidelines, in combination with two patterns of behavior, which we note for shared-placement parents: a tendency to forego a child support order when the dollar value would be relatively low, and an aversion to naming the primary parent as the paying parent in unequal shared-placement cases.

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I. INTRODUCTION

Child support guidelines are designed to provide appropriate financial support when parents do not live together, taking into account the financial resources of the parents and the physical placement of the child(ren). The child support amounts are set *given* the placement; their justification generally does not include intent to provide incentives that affect placement. Nonetheless, in many cases child support guidelines inadvertently create financial incentives for parents with respect to the time children spend in each household.

To illustrate the potential incentive effects of alternative guidelines, consider a case in which the father is the higher earner and the lesser-time parent and thus expects to pay child support to the mother. If the father is able to secure a higher proportion of time with the child(ren), he can expect to incur additional expenses, though the extent of additional expenses will vary substantially depending on a range of factors. If the father secures a higher proportion of time with his child(ren), he may also be required to pay less child support, according to the child support guidelines. Some of the additional expenses incurred by the father will be reflected in reduced costs for the mother (for example, meals) while others may not (for example, extra room in the father's home to allow longer stays would not reduce the need for space in the mother's home). Given the diversity and complexity of family situations and expenditure patterns in shared custody cases, no guideline can perfectly fit all families.¹ Given that total costs may change as the division of time changes (i.e., increases in costs for one parent may not be equivalent to savings for the other), no guideline will completely eliminate the role of financial incentives in influencing parents' placement preferences.

¹The current Wisconsin child support guidelines explicitly say that shared custody is associated with higher total expenditures than sole custody cases. To our knowledge there is very limited empirical evidence on the variation in expenditure patterns across placement types. We discuss these issues in more detail in Appendix 2 of this report.

While it is inevitable that child support guidelines will create incentives to alter placement arrangements, the importance of these incentives for parents' actual placement decisions is unclear. Many factors influence parents' preferred placement arrangements, and for many parents the financial implications may be secondary.

In this report we consider an important change in the guidelines, enacted in 2004, in which the shared-placement threshold was lowered to 25 percent or more, and the child support formula was changed to a variant of the "*below* threshold offset formula." Our main focus is two-fold: (1) we examine the guidelines' use in divorce cases, and (2) we consider evidence regarding the change's effect on placement outcomes. In particular, we examine a sample of Wisconsin divorce cases that entered the court system before and after the January 2004 change in the child support guidelines in shared physical-placement cases. After explaining how the changes in the guidelines might be expected to alter incentives for parents, we study whether the changes might have influenced parents' behavior, by evaluating the evidence regarding use of the new guidelines, changes in the percentage of shared-placement cases, and any changes in rates of litigation that would be consistent with the change in financial incentives.

II. POLICY CONTEXT

Wisconsin has had a guideline and formula for calculating child support in shared-placement cases since 1987. The threshold of time-share that defined shared placement was "over 109 overnights" (or over 30 percent time-share) from 1987 through 2003. During this period of time the formula for calculating child support was changed several times. The formula in place from 1995 through 2003 was a two-part formula, with one formula in effect for 31 to 40 percent time-share, and another formula in effect for 41 to 50 percent time-share (with 31 to 40 and 41 to 50 percent time-share referring to the percentage of time during the year that the lesser-time parent had the children in his or her care). From 1995 through 2003, the formula in effect in the lower level of time-share (31 to 40 percent) was a "gradient" formula, which considered only the income of the lesser-time parent, and did not allow for a switch of payor to the greater-time parent, irrespective of income disparities. A separate formula was in effect in the higher

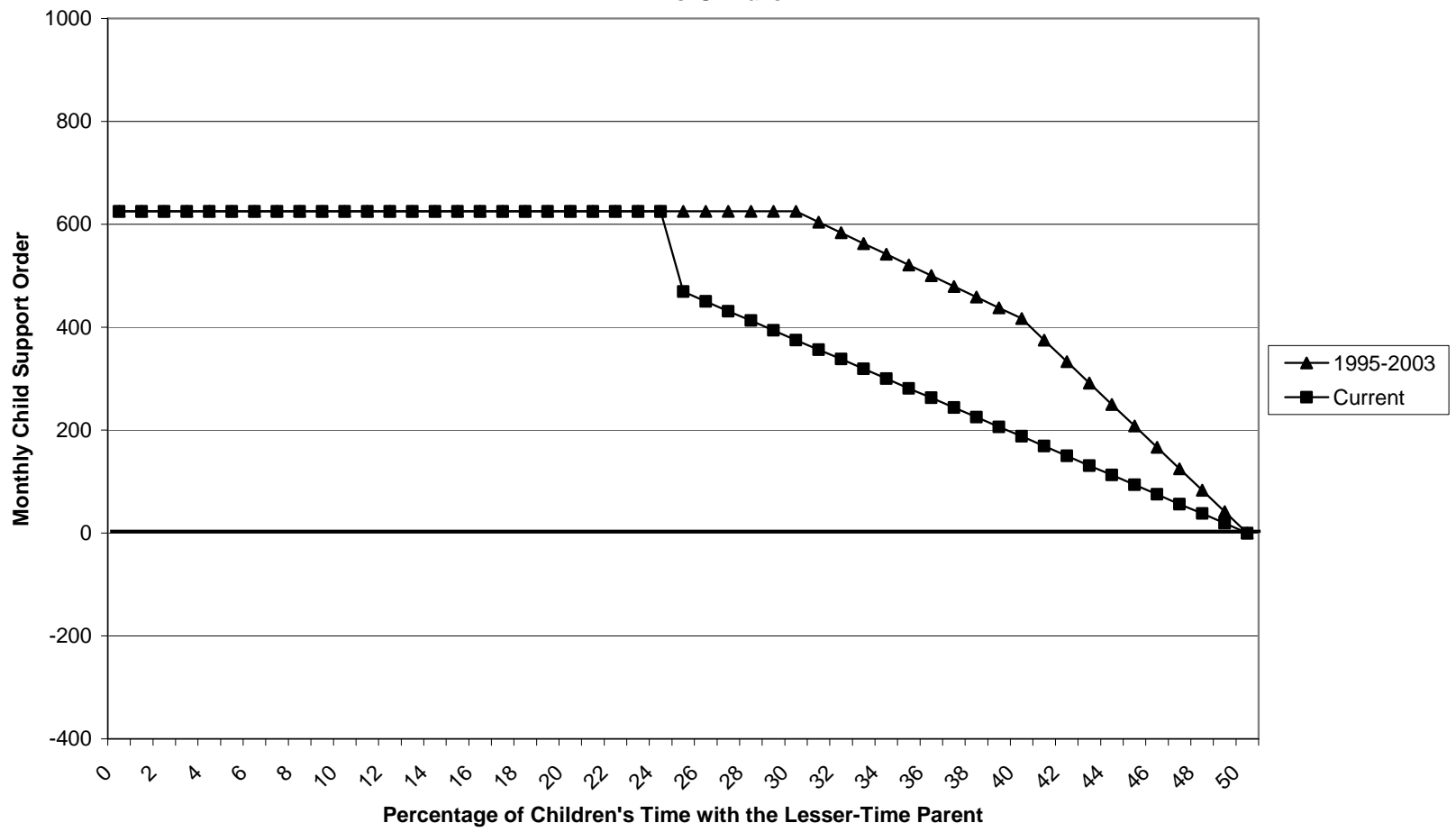
levels of time-share (41 to 50 percent), and can be referred to as an “*above threshold offset*” formula, which took into account the incomes of both parents and the time-share level of both parents, and could call for a switch in payor to be the greater-time parent in cases of large income discrepancies. (See Brown and Brito, 2007, for a more in-depth discussion of this and the current Wisconsin child support formulas.)

According to the formula in place between 1995 and 2003, child support to be owed in an equal shared-placement case with equal-earning parents would be zero. Figure 1, top line, shows the effect of this formula, in terms of dollars to be owed, given the level of time-share of the lesser-time parent, for a case where both parents hypothetically earned \$30,000 and had two children. There was no reduction in child support until after 30 percent time-share (the time-share threshold that defined shared placement from 1995-2003); then there was a gradual reduction in child support from 31 to 40 percent time-share (the effect of the gradient formula); and then a steeper reduction to the level of zero dollars at 50 percent time-share (the effect of the “above threshold” formula).

Beginning in January 2004, the threshold for defining shared placement was changed to “25 percent and above,” and the formula was changed to a variant of the “*below threshold offset formula*”² The result of this formula is presented in Figure 1, for the same-income–two-child scenario, in the lower line on the graph. Two effects of the new formula seen on this figure are: (1) the dollar amount of the child support order has been reduced for the lesser-time parent, and (2) a “cliff-effect” has been created—that is, a large drop in child support order with a one percent increase in time-share (seen between 24 and 25 percent time-share).

²The “below threshold offset” child support formula is known to produce a “cliff effect” at the point of implementation along the time-share continuum. This cliff effect can be reduced by lowering the threshold (which the State of Wisconsin did simultaneously with the adoption of this formula), and by “tweaking” the formula mathematically. Wisconsin has altered the below-threshold offset formula by multiplying the results by 150 percent, using the rationale that the costs of shared parenting are greater than sole placement. In Appendix 1 we address the issue of increased costs of shared placement.

Figure 1
1995–2003 Wisconsin Guideline and Current Wisconsin Guideline
Annual Parent Incomes: \$30,000 Lesser-Time Parent / \$30,000 Greater-Time Parent
Two Children



Implications of the New Guidelines for Child Support Orders

Figures 2 and 3 show the effects of the new 2004 guidelines, compared to the 1995-2003 guidelines, for a hypothetical set of parents with the Cohort 24 median incomes for shared-placement mothers and fathers (\$25,000 and \$37,000 per year, respectively, in 2003 dollars), for the average shared-placement family of two children. In Figure 2 the greater-time parent has the lower income. In this situation, there is a small cliff effect, and the child support order is lower under the new guidelines for shared placement from 25 percent time to about 44 percent time. At 45 percent time, the child support order would be about the same as the order when using the old guidelines. For time-share levels from 46 to 50 percent, the child support order is actually higher for the higher-earning parent, compared to the older guidelines.

In Figure 3, the lesser-time parent has the lower income, and this figure shows that the cliff effect is quite large at 25 percent time-share (a drop of over \$200 per month in child support with a one percent increase in time-share for the lesser-time parent). Figure 3 also shows that the child support order is lower for the lesser-time parent at all levels of time-share, and that at about 40 percent time-share the new guidelines would call for a switch in payor to the higher income greater-time parent (compared to a switch in payor at a higher time-share level, about 48 percent, with the 1995-2003 guidelines).

In summary, we note several implications of the new 2004 shared placement child support guidelines:

- (1) For many cases, a cliff effect [wherein a small difference in percentage of placement creates a disproportionate reduction (or increase) in child support] has been produced. This is particularly true for cases in which the lower income parent is the lesser-time parent, but is also true in some cases where the higher income parent is the lesser-time parent (if the higher income parent is the lesser-time parent, the cliff effect will be reduced with greater income disparities).
- (2) In comparison with the previous guidelines and formulas, the current formula produces *lower* child support orders at lower levels of time-share. But at higher levels of time-share the current guidelines may produce lower, equal, or higher orders, depending on the parents' relative incomes.
- (3) In equal shared-placement cases the current guidelines produce higher child support orders than the previous guidelines.

Figure 2
1995–2003 Wisconsin Guidelines and Current Wisconsin Guidelines
Annual Parent Incomes: \$37,000 Lesser-Time Parent / \$25,000 Greater-Time Parent,
Two Children

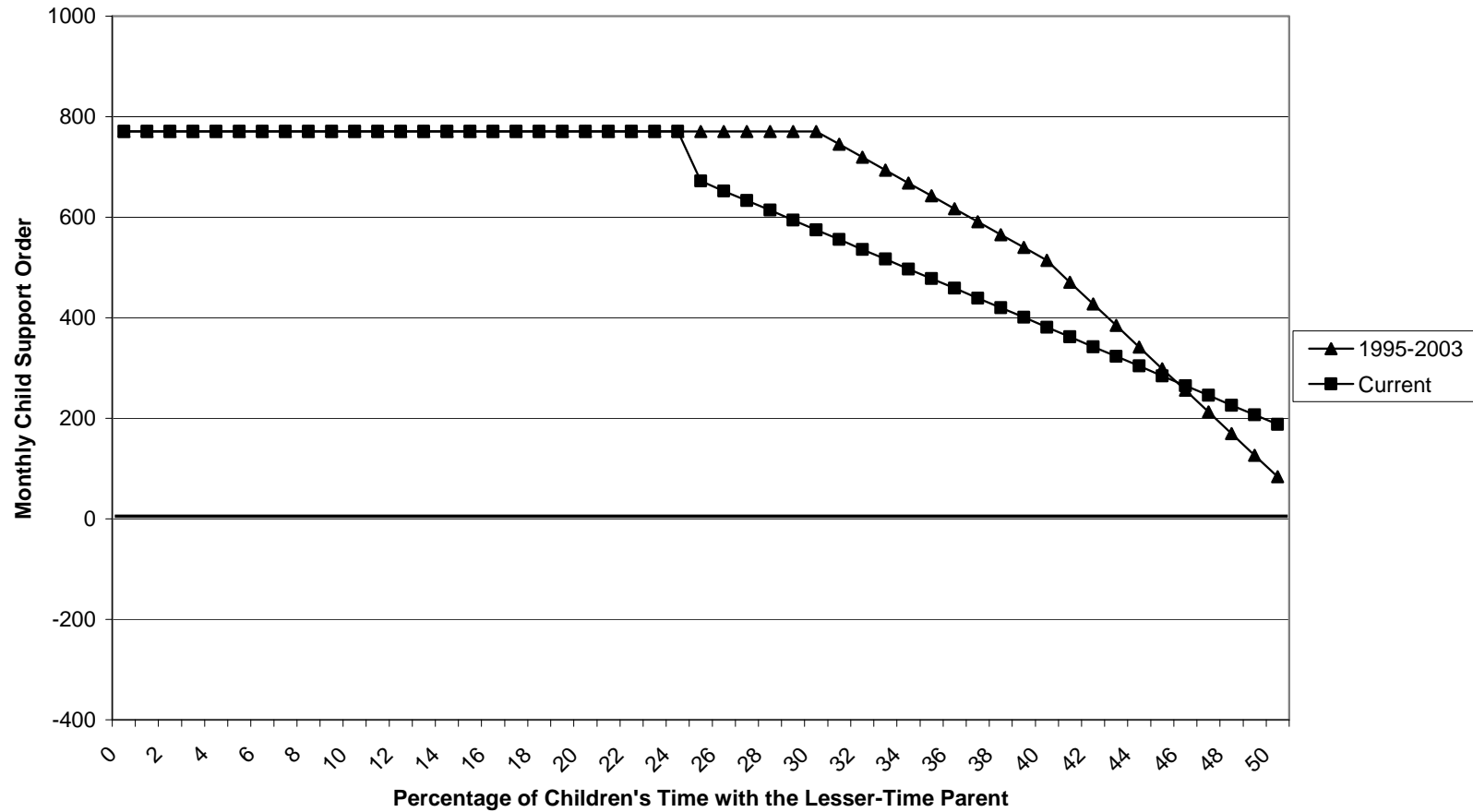
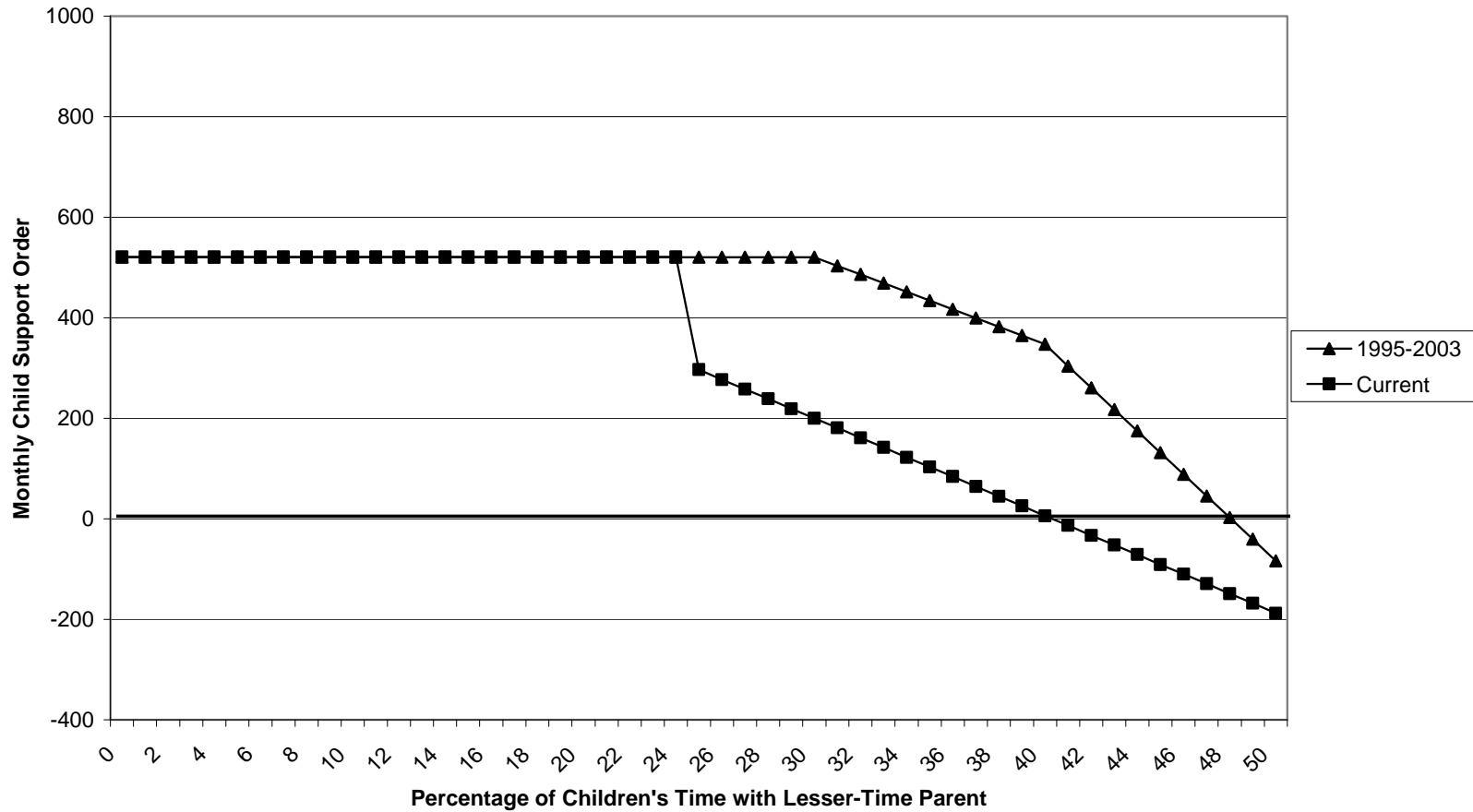


Figure 3
1995–2003 Wisconsin Guidelines and Current Wisconsin Guidelines
Annual Parent Incomes: \$25,000 Lesser-Time Parent / \$37,000 Greater-Time Parent,
Two Children



Implications of the New Guidelines for Placement Decisions

The second focus of our examination of court record data for cases that came to court after the implementation of the 2004 guidelines, after evaluating the use of the guidelines, was to evaluate the evidence that a change in guidelines might have produced a change in litigation rates or child placement. We evaluated the data to determine whether there was evidence suggesting parents might be making child placement decisions based on the financial incentives embedded in the guideline changes. For all parents, regardless of income, the change in the guidelines reduced the amount of support the lesser-time parent owes when they have placement between 25 percent and about 40 percent of the time—a change that increased the financial incentive for lesser-time parents to opt for this arrangement (and similarly increased the incentive for greater-time parents to resist it).

As mentioned above, for some parents the change in guidelines meant that a small change in placement, for example, from 24 to 25 percent time-share, was associated with a large change in the amount of child support paid or received. We might, therefore, find higher litigation rates for cases around the threshold level of 25 percent time.

And for parents contemplating greater levels of time-share, the new guidelines produce larger levels of child support to be paid by the higher income parent. [The earlier guidelines calculated lower child support order levels in 50/50 cases, compared to other states, while the current guidelines return higher child support award levels than other states (see Brown and Brito, 2007).] We might therefore find changes in the proportion of cases at higher levels of time-share, including 50/50 time-share, particularly in cases with large income disparities. We note, however, that the change increases the support paid by the higher income parent by the same amount as it increases the support owed to the lower income parent. Thus, the expected implications of the change for placement are not straightforward.³

³For example, the increased support in equal shared placement cases would be proportionally more important to the lower income parent. Thus, the change might be expected to create a greater incentive for the lower income parent to accept an equal-shared agreement than it creates a disincentive for the higher income parent to resist that agreement. On the other hand, the higher income parent may have better access to legal representation or other resources that might influence placement.

III. DATA

Our analysis is based on a sample of divorce cases from the Wisconsin Court Record Data (CRD).⁴ In our primary analysis we compare patterns for Cohorts 21 and 24 to analyze the effects of the January 2004 guideline change in Wisconsin. As shown in Table 1, Cohort 21 includes cases petitioned to court between July 2000 and June 2001, with virtually all cases having a final divorce judgment finalized by 2002—well before the new shared custody guidelines took effect. In contrast, Cohort 24 includes cases that petitioned between July 2003 and June 2004, with the final divorce judgment finalized after the January 2004 changes for all but a few cases. In some analyses we also consider patterns for earlier Cohorts (17 and 18), which came to court well before the 2004 change in child support guidelines, to consider longer-term trends.⁵

Our primary analysis compares outcomes for Cohorts 21 and 24 and evaluates the extent to which the guidelines were followed before and after the change, and considers evidence that the new guidelines are having unintended effects on levels of litigation or on child physical placement. The CRD data include detailed information on physical placement language of final divorce judgment orders and agreements. In addition, the CRD data provide information on legal representation of each parent, the extent of litigation, and other details of the case. Income information is also generally available. In cases in which income is missing from the CRD we use earnings from Unemployment Insurance wage record data for the four quarters prior to the final divorce judgment.

While the CRD data provide key information not available from other sources, the limited sample size is an issue for this analysis: the CRD contains a total of 889 divorce cases in Cohort 21 with a final

⁴Information on shared physical placement is not currently available in the State of Wisconsin KIDS data system. Data fields are available for use in KIDS (NB_DAYS_FTHR and NB_DAYS_MTHR from KIDS table TCOURT_ORD_NON_FIN); however, only 3 percent of shared placement cases from Cohort 24 could be identified as such from information entered by caseworkers into those fields.

⁵We have not included in this report information on cases collected for CRD Cohort 23, which entered the court system from July 2002 through June 2003. We had anticipated that Cohort 23 cases would be useful as the pre-law change comparison group; however, nearly 25 percent of Cohort 23 cases had final divorce hearings in 2004 and 2005, and therefore this set of cases does not provide a valid pre-change comparison group.

Table 1
Year of Divorce Final Judgment, by CRD Cohort

Year of Divorce FJ	CRD Cohort	
	21 7/2000 – 6/2001*	24 7/2003 – 6/2004*
	N = 905	N = 810
2000	2.8%	NA
2001	69.4%	NA
2002	25.2%	NA
2003	2.0%	3.1%
2004	0.1%	73.1%
2005	NA	19.5%
2006	NA	1.5%
Divorce not finalized	0.5%	2.8%
Total	100.0%	100.0%

Bolded percentages are after 1/1/2004 change in child support law.

*Date of petition to court for divorce.

Weighted data.

divorce judgment and a placement award to one or both of the parents, and 777 similar divorce cases in Cohort 24.⁶ In the most recent cohort, shared placement is defined by the Wisconsin child support guidelines to be 25 percent of the child's time or more with each parent. In Cohort 24, forty-one percent of cases fall into this category (see Table 2), according to the details of the placement schedule, although not all of these cases have a child support order consistent with the shared-placement guideline. In Cohort 21, the child support guideline current at that time defined shared placement as more than 30 percent of the child's time with both parents, and about thirty-three percent of the Cohort 21 cases fall into this category, according to their placement schedule.⁷ However, for purposes of comparison, in most of the tables in this paper we have used the current 25 percent time-share definition to define shared-placement cases for both cohorts. Thirty-five percent of the Cohort 21 cases conformed to the current shared-placement definition of 25 percent time or more.

For longer-term trends, in Table 2 we have also included information from Cohorts 17 and 18 (i.e., cases that entered the Wisconsin court system from July 1996 through June 1998). Over the full period covered, the proportion of cases with child physical placement of 25 to 50 percent time-share with both parents grew from under 30, to 35, and then to 41 percent in Wisconsin divorce cases in the years from Cohorts 17 and 18 to 24. Additionally, officially defined shared physical placement, reflecting the

⁶Three percent of the Cohort 24 cases and 0.5 percent of Cohort 21 cases had not yet been finalized by the time of data collection, and therefore were not included our analyses. Also excluded were cases in which placement of the child was with a third party, or where the parents had reconciled, or where the child had aged out prior to the final divorce judgment.

⁷Other IRP reports have used Cohort 21 data to measure shared placement, and in some cases those reports have used slight variations in the definition of shared placement, and therefore the percentages reported may be slightly different. In particular, other reports have defined shared placement according to the child support guidelines used, and this definition results in a smaller percentage of shared-placement cases, since some cases use the sole-placement formula despite time-share schedules of over 30 percent time, detailed in the final divorce judgment. Also, in some cases with multiple children, one child may have sole placement, while another child has shared placement. How these cases are classified varies by author.

In 2 to 3 percent of Cohort 21 and 24 cases the parents indicate placement as equal-shared time although the child spends more overnights with one parent or the other (in 20 percent of these cases the father has the majority of overnights, and in 80 percent of these cases it is the mother who cares for the child the majority of overnights); however, the parent with fewer overnights is caring for the child more during the daytime hours, and the parents consider this "equivalent care" and regard their responsibilities for the child as equally shared. The percentage of equal-shared parents who could be defined as equivalent care situations did not significantly change between Cohorts 21 and 24.

Table 2
Child Physical Placement Categories, by Cohort
CRD Divorce Cases

	CRD Cohort		
	17 & 18 7/1996 – 6/1998*	21 7/2000 – 6/2001*	24 7/2003 – 6/2004*
Physical Placement			
Sole Placement:**			
Sole Mother 0–24%	59.2%	56.5%	51.3%
Sole Father 0–24%	8.5%	6.9%	4.6%
Split	2.6%	2.1%	3.1%
(subtotal)	(70.3%)	(65.5%)	(59.0%)
Shared Placement:			
25–30% time***	3.6%	2.6%	4.3%
30–49% time****	10.9%	9.5%	12.5%
50% time	15.2%	22.4%	24.2%
(subtotal)	(29.7%)	(34.5%)	(41.0%)
Total	100.0%	100.0%	100.0%
Total number of cases*****	N=1545	N=889	N=777

Bolded percentages indicate “shared placement” according to the child support guidelines in effect during this time-period.

*Date of petition to court for divorce.

**Sole mother and sole father categories do not include percentages for time-share levels of 25–30 percent time.

***These cases were not considered shared-placement cases until January 1, 2004.

****This category includes mixed-placement cases where one child might be in sole placement and another child might be in shared placement.

*****Total cases excludes cases in which child’s placement was with a 3rd party; where child aged out prior to the final divorce judgment; cases where the parents reconciled, or cases in which the final divorce decree had not yet been granted.

Weighted data.

expansion in the definition of “shared” for Cohort 24 cases, grew from 26 to 41 percent between Cohorts 17 and 18 and 24.

IV. RESULTS

A. How Often and Accurately Are the New 2004 Shared-Placement Guidelines Being Used?

In considering the child support guidelines in shared-placement cases it is useful to distinguish between equal and unequal shared cases. Equal and unequal shared-placement cases differ in a number of ways, and rates of child support orders in equal shared-placement cases have previously been low. As illustrated by Figure 1 above, when parents have equal incomes and share time equally, neither the previous nor the current guidelines call for a child support order. However, when parents have different incomes the guidelines do provide for child support in equal shared placement cases—and the 2004 guideline calls for greater amounts of child support for a given difference in incomes, compared to the pre-2004 guidelines (See Figures 2 and 3).

Table 3 shows information about child support in equal shared-placement cases for Cohorts 21 and 24. The top panel shows the proportion of equal shared cases with and without child support orders, and which parent was named, or should have been named, as the obligor, given the differences in income. Fathers were ordered to pay support in 37 percent of equal shared cases in Cohort 21, a percentage that was virtually unchanged in Cohort 24. In both periods most equal shared cases had no order for child support; that proportion declined very slightly from 63 percent in Cohort 21 to 59 percent in Cohort 24. The percent of mothers owing support increased from 0 to about 5 percent over this time period.

The continued low rate of child support orders in equal shared-placement cases may reflect the relatively low amounts of expected orders. In Cohort 21, equal shared-placement cases with no child support order should have had a median order of \$58 per month (last line in middle panel of Table 3). This increased to \$112 for similar cases in Cohort 24. However, these median expected orders are relatively low, compared to the median child support order in cases with orders: \$269 in Cohort 21 cases,

Table 3
Child Support in Equal Shared-Placement Cases, by Cohort
Divorce Cases

	Cohort 21			Cohort 24	
Child Support in Equal Shared Cases:	N=267			N=191	
Father owes CS	37.2%			36.6%	
Mother owes CS	0.0%			4.7%	
No Child Support Order	62.8%			58.7%	
FA should owe CS*	34.6%			32.5%	
MO should owe CS*	25.2%			22.7%	
Unknown who should owe**	3.0%			3.5%	
Total	100.0%			100.0%	
Mean child support order, if an order	\$545			\$617	
Median child support order, if an order	\$269			\$385	
Equal Shared Cases with No Child Support Order:	N=157			N=108	
Amount Father Should Owe Per Month:***					
\$1,000 or more	0.6%			2.7%	
\$500–\$1,000	0.5%			8.5%	
\$400–\$500	0.9%			2.7%	
\$300–\$400	2.1%			7.6%	
\$200–\$300	2.9%			2.7%	
\$100–\$200	10.8%			12.7%	
\$50–\$100	20.0%			11.5%	
\$1–\$50	20.1%			10.4%	
Amount Mother Should Owe Per Month:***					
\$1–\$50	21.7%			6.3%	
\$50–\$100	9.6%			14.2%	
\$100–\$200	8.4%			12.0%	
\$200–\$300	1.8%			1.5%	
\$300–\$400	0.0%			1.1%	
\$400–\$500	0.5%			2.5%	
\$500–\$1,000	0.1%			1.6%	
\$1,000 or more	0.0%			2.0%	
Total	100.0%			100.0%	
Mean dollar amount of what child support should be	\$92			\$261	
Median dollar amount of what child support should be	\$58			\$112	
Equal Shared Cases with a Child Support Order:	N=99			N=74	
CS order is > 1% less than should be	[> 2%]	5.4%	[4.4%]	24.6%	[14.9%]
CS order is consistent with guidelines****	[< 2%]	27.7%	[34.4%]	38.7%	[48.4%]
CS order is > 1% more than should be	[> 2%]	66.9%	[61.3%]	36.7%	[36.7%]
Total		100.0%			100.0%

Data are weighted.

*Who “should owe” is based on which parent reported the largest income in the court record data. If income was missing in the CRD, wage record data from Unemployment Insurance in the 4 quarters prior to the divorce final judgment was used.

**It is unknown who should owe child support since the income of one or both parents are missing in the CRD and is not reported in the UI wage record data.

***Dollars were not adjusted for inflation. For Cohort 24 cases, adjustments were made for high and low incomes, in accordance with the 2004 guidelines.

****Consistency with guidelines is measured as more/less than 1% of the obligor’s income. In a few cases the mother should have been the payor, but the father was named as the payor. These cases have been categorized as “> 1% more than should be”, in recognition of the fact that the obligor should not owe any child support and should be the child support payee.

and \$385 in Cohort 24 cases (last line in top panel of Table 3). The middle panel on Table 3 shows in more detail the distribution of monthly child support order amounts called for by the guidelines, given the parents' incomes, in equal shared cases that did not have a child support order. Cases without child support orders show somewhat greater deviations from the guidelines in the post-2004 period. In the earlier cohort, almost 42 percent of cases (20.1 percent of cases where the payor should have been the father, plus 21.7 percent of cases where the payor should have been the mother), the guidelines called for an order of less than \$50 per month. An additional 30 percent (20.0 percent plus 9.6 percent) of Cohort 21 cases should have had an order of \$50 to \$100 per month. In contrast, the Cohort 24 percentages show that less than 17 percent of cases without an order should have had an order of less than \$50, and about 26 percent should have had an order of \$50 to \$100. Thus, in the pre-2004 cohort, 71 percent of the cases were deviating from the guidelines by less than \$100 per month. In the later period, however, the majority of equal shared cases without orders (58 percent) were deviating from the guidelines by more than \$100 per month. In 11 percent of the Cohort 24 cases without orders the father should owe more than \$500 per month, and in about 4 percent of the cases the mother should owe more than \$500 per month. Such large deviations were found for only 1 percent of all equal shared cases without child support orders in the pre-2004 cohort.

The final panel on Table 3 shows information on consistent use of the guidelines among equal shared cases with child support orders. These percentages indicate that the percentage of child support orders that are consistent with the guidelines has increased from about 28 percent to about 39 percent—that is, in these cases the actual child support order was within one percentage point of the obligor's income as suggested by the guidelines.⁸ Among cases with orders that deviate by more than one percentage point, in the pre-2004 cohort the obligor was ordered to pay *more* than suggested by the guidelines in 66 percent of the cases, and only 5 percent were ordered to pay less. In the later cohort there

⁸In brackets we have included percentages associated with an alternative definition of “consistency with the guidelines,” and that is, within plus/minus 2 percent of the obligor's income.

has been a shift to a greater percentage of obligors ordered to pay *less* (about 25 percent are ordered to pay less, compared to about 37 percent who are ordered to pay more) than the guidelines would suggest.

This shift across cohorts may in part reflect continued use of the older guidelines (resulting in lower dollar amounts in equal time-share cases) in the more recent period. In 36 percent of the cases where the order was below the new guidelines it was consistent with the pre-2004 guidelines, in 57 percent of the cases it was between the old (pre-2004) and new guidelines, and in 7 percent of the cases the order was below the former guidelines (data not shown). In a separate analysis of the later half of Cohort 24 cases that entered the court system after January 1, 2004, we found no greater rates of ordering child support in equal shared cases, but in those cases in which child support was ordered, consistent use of the guidelines rose to 48 percent—for those within plus/minus 1 percent of the obligor's income (data not shown).

The use of the guidelines in mother-primary shared cases is shown in Table 4. In the earlier cohort child support was ordered in about 89 percent of the cases; in the later cohort, child support was ordered in 80 percent of the cases. In all cases in both periods the father was ordered to pay support to the mother. The increase in the proportion of cases without support (from 11 to 20 percent) is somewhat accounted for by an increase in the proportion in which the post-2004 guidelines call for the mother (the primary parent) to owe support: from 0 to about 5 percent of the cases.

The second panel of Table 4 shows the consistency in use of the guidelines when there was a child support order in unequal shared–mother primary cases. Interestingly, this shows that there has been a decrease in use of the guidelines, and an increase in orders that are higher than what is called for in the new 2004 guidelines. Those with orders in excess of the guidelines by more than 1 percent of the obligor's income increased from 52 percent to 70 percent of all unequal shared-placement (mother-primary) orders. This may indicate that parents or the court system have not yet adjusted to the reduction in child support orders called for by the new 2004 guidelines (which in most cases would result in lower order amounts than the pre-2004 guidelines). [In a separate analysis of the later half of Cohort 24 cases that entered the court system after January 1, 2004, a larger percentage of unequal shared–mother primary

Table 4
Child Support in Unequal Shared–Mother Primary Placement Cases, by Cohort
Divorce Cases

	Cohort 21		Cohort 24	
Child Support in Unequal Shared–Mother Primary Cases:*				
	N=87		N=117	
Father owes CS	88.6%		80.0%	
Mother owes CS	0.0%		0.0%	
No Child Support Order:	11.4%		20.0%	
FA should owe CS**	11.4%		14.1%	
MO should owe CS**	0.0%		4.7%	
Unknown who should owe***	0.0%		1.2%	
Total	100.0%		100.0%	
Unequal Shared–Mother Primary Cases with a Child Support Order:				
	N=69		N=81	
CS order is > 1% less than should be [> 2%]	26.0%	[15.6%]	16.6%	[9.0%]
CS order is consistent with guidelines**** [$< 2\%$]	21.9%	[36.9%]	13.6%	[33.4%]
CS order is > 1% more than should be [> 2%]	52.1%	[47.5%]	69.8%	[57.1%]
Total	100.0%		100.0%	

Data are weighted.

*Unequal shared–mother primary cases include cases with multiple children and mixed mother-primary and mother-sole. For Cohort 21, cases with time-shares of 31–49% were included; for Cohort 24 cases, cases with time-shares of 25–49% were included.

**Who “should owe” is based on the level of time-share, parents’ relative income, and the appropriate guideline in that time period. If income was missing in the CRD, wage record data from Unemployment Insurance in the 4 quarters prior to the divorce final judgment was used.

***It is unknown who should owe child support since the income of one or both parents is missing in the CRD, and is not reported in the UI wage record data.

****Consistency with guidelines is measured as more/less than 1% of the obligor’s income. In 6.8% of the Cohort 24 cases with a child support order the mother should have been the payor, but the father was named as the child support obligor. These cases have been categorized as “> 1% more than should be”, in recognition of the fact that the obligor should not owe any child support at all, and should be the child support payee. For Cohort 24 cases, adjustments were made for high and low incomes, in accordance with the 2004 guidelines.

cases did not have a child support order (25 percent); however, those in which there was an order show a slight increase (to 19 percent) in orders consistent with the guidelines—i.e., within plus or minus one percent of the obligor’s income (data not shown).]

It is also noteworthy that 7 percent of Cohort 24 child support orders are in cases where the mother should be the obligor, according to the new guidelines, but the father is named as the child support payor instead (not shown on table). There are insufficient cases of father-primary shared custody cases for separate analysis (N=13 in Cohort 21 and N=22 in Cohort 24); however, the tendency to not order child support to be paid by the primary parent is also apparent in father-primary cases. In about one-third of the unequal shared–father primary cases in Cohort 24, the father should have been ordered to pay support, due to their higher incomes (data not shown). However, in only one of these cases was a father ordered to pay child support to the mother with less time-share. These results should be interpreted with caution given the small sample size. Nonetheless, it does appear that when the new guidelines call for a higher-earning primary parent to pay support, this aspect of the guidelines is rarely followed.

B. Are Changes in the Percentage of Shared-Placement Cases Consistent with Changes in the Financial Incentives Created by the New Guidelines?

To what extent are changes in the rates of shared-placement consistent with changes in the guidelines? As reviewed above, the 2004 shared-placement guidelines create cliffs in the amount of child support owed, such that a one percentage point increase or decrease in child placement time could generate a large financial gain or loss for parents with placement arrangements close to the 25 to 30 percent levels. The cliffs create incentives for lesser-time parents to pursue physical placement time-share of at least 25 percent, *especially in cases in which the lesser-time parent has approximately equal, or lower, income than the greater-time parent* (as discussed above and see Figure 3). Of course, any incentive to increase physical placement time-share for the lesser-time parent may be counter-balanced by the incentive to reduce this time-share on the part of the greater-time parent. Thus, the change in the guidelines does not suggest, a priori, an increase or decrease in the proportion of cases in this range. On

the other hand, the discontinuities or cliffs in order amounts increase the financial consequences of changes in placement. This might increase conflict or litigation regarding placement for cases with arrangements close to the threshold—an issue we address in the next section of the report.

The first row of Table 5 shows that the percent of divorce cases resulting in mother-sole placement (with time-share to the father of less than 25 percent) declined from about 57 to 51 percent between Cohorts 21 and 24. This is consistent with long-term trends (see Table 2, where sole-mother placement at this time-share level was over 59 percent in Cohorts 17 and 18). Few cases resulted in father-sole custody in either period, but there is also a decline, from 7 to 5 percent (and from a high of 9 percent in Cohorts 17 and 18, Table 2). In contrast, placement at time-share levels between 25 and 50 percent rose from 35 to 41 percent (and from 30 percent in Cohorts 17 and 18, Table 2). While small sample sizes limit our interpretation of changes in narrow intervals of time-share, we can detect significant declines in the percentage of cases in both mother-and father-sole placement, and significant growth in shared placement.⁹

In the second panel on Table 5 we separate shared placement into two categories: equal shared, and unequal shared placement (25 to 49 percent time-share). The growth in shared placement is disproportionately concentrated in unequal, rather than equal, shared-placement cases.

The revised 2004 guidelines call for higher orders in equal shared-placement cases in which the parents have substantially different incomes. If the relatively slow growth in equal shared placement were related to the higher child support orders for couples with unequal incomes, we might expect to see differences by relative income. The next panel on Table 5 shows a breakdown of equal shared-placement cases by the relative incomes of the parents. There is some growth in three of the four categories, but the growth is not significant in any category, and there is no consistent pattern by relative income.

⁹We detected no significant difference in the rates of placement between earlier and later cases within the Cohort 24 sample of divorce cases (data not shown).

Table 5
Child Physical Placement Categories, by Cohort
CRD Divorce Cases

Physical Placement	CRD Cohort		T-Test of Difference between Cohorts
	21 N=889	24 N=777	p-value
All Cases:			
Sole Mother 0–24% *	56.5%	51.3%	0.0285
Sole Father 0–24% *	6.9%	4.6%	0.0482
Split	2.1%	3.1%	0.2098
Shared Placement 25–50%	34.5%	41.0%	0.0070
Total **	100.0%	100.0%	
Shared Placement 25–50%:			
Unequal 25–49%	12.1%	16.8%	0.0059
Equal 50/50	22.4%	24.2%	0.4170
Equal Shared Placement:			
Father much higher income***	12.9%	13.3%	0.8420
Near equal, Fa inc higher***	2.4%	3.7%	0.1318
Near equal, Mo inc higher***	2.7%	2.5%	0.8079
Mother much higher income***	3.7%	4.1%	0.6639
Incomes missing	0.7%	0.6%	
Unequal Shared Placement:			
Mother Primary	10.9%	14.4%	0.0307
Father Primary	1.2%	2.4%	0.0597
25–40% time-share	7.4%	11.0%	0.0101
41–49% time-share	4.7%	5.8%	0.2950
NCP lower income than CP****	3.5%	6.1%	0.0091
NCP higher income than CP	8.2%	10.2%	0.1634
Fa lower income than Mo	3.1%	4.3%	0.9181
Fa higher income than Mo	8.6%	11.5%	0.6085
NCP income 1st quintile	1.1%	1.9%	0.1630
NCP income 2nd quintile	2.1%	3.7%	0.0444
NCP income 3rd quintile	2.8%	3.1%	0.7762
NCP income 4th quintile	3.2%	3.1%	0.9264
NCP income 5th quintile	2.8%	4.6%	0.0450

*Sole-mother and sole-father categories do not include percentages for time-share levels of 25–30 percent time.

**Total cases excludes cases in which child's placement was with a 3rd party; where child aged out prior to the final divorce judgment, cases where the parents reconciled, or cases in which the final divorce decree had not yet been granted.

***"Father's income much higher" defines cases in which father's income is 120% or more than mother's; "Near equal, father's income higher" defines cases in which father's income is 100–120% of mother's; "Near equal, mother's income higher" defines cases in which mother's income is 100–120% of father's; "Mother's income much higher" defines cases in which mother's income is 120% or more than father's.

****Cases with missing incomes are omitted.

Weighted data.

The final four panels on Table 5 show the distribution of unequal shared cases by time-share; which parent has primary placement; income ratios of the parents; and the income quintile of fathers. The proportion with unequal shared placement grew across every category except among lesser-time parents with incomes in the fourth quintiles. Growth was higher in the lower time-share level (25 to 40 percent, relative to 41 to 49 percent time) and among cases in which the lesser time-share parent (or noncustodial parent, NCP) had lower income than the greater time-share parent. It is noteworthy that we find significant gains in the percentage of cases in the 25 to 40 percent time-share category—which is the time-share level with the greatest reduction in child support orders under the revised guidelines. We also find significant increases in cases in which the NCP has a lower income in relative terms—in which the child support payor would have the most to gain by the adoption of the 2004 shared-placement child support guidelines.

In Appendix 1 we show percentage of cases in different categories of shared placement, by quintiles of parents' incomes. This table is instructive in several respects. It shows that higher income parents favor shared placement more than lower income parents (63 percent of the highest quintile of combined incomes chose shared placement in Cohort 24, compared to 28 percent of the lowest quintile). However, all but the very lowest quintile show fairly high rates of shared placement. It also shows somewhat different patterns for mothers and fathers. For mothers, rates of shared placement increase with each quintile. Fathers, conversely, have lower rates than mothers in the lowest quintile, higher rates in the higher quintile, and with no consistent pattern (though a high rate of 42 to 43 percent shared) in the middle three quintiles. This table also shows that unequal shared placement—mother primary (with time-share levels of 25 to 40 percent for the father) became particularly common for those in the highest income quintile.

C. Are Changes in Litigation Consistent with Changes in the Financial Incentives Created by the New Guidelines?

The change in the shared custody guidelines increased the financial consequences of shared placement, especially among cases with placement arrangements between 25 and 30 percent time-share. We might expect this change to increase conflict or litigation between parents. With this in mind we examine the case history of court appearances to determine if there has been an increase in the average amount of time between petition and final divorce judgment hearings, an increase in court activity prior to the final divorce judgment, or increases in the rate of legal representation, to assess whether there has been a significant increase in litigation over arrangements for child placement and child support.

In Table 6 we compare the pattern of court appearances and the extent of legal representation across cohorts, with a particular focus on cases near the shared custody cut-offs, and cases in which the new guidelines had particularly significant consequences. We group together cases where the time-share outcome gave the father 20 to 30 percent time with the child. This group faced a potentially large change in child support due between 24 and 25 percent time-shares, which we might expect to have resulted in greater litigation. We also consider cases in the 30 to 45 percent time-share, and those with 45 to 55 percent time-share. Both of these categories faced significant changes caused by the 2004 guidelines, but neither faced large reductions in child support with small increases in time-share. Cases in which the father had 70 to 80 percent time with the child corresponds to the 20 to 30 percent time-share level for mothers (where there were potential discontinuities), but the number of these cases in which the father was the greater time parent were too few to analyze separately from other unequal shared-father primary cases.

On the first panel of Table 6 we show two different indicators of litigation: (1) the number of court hearings in the case prior to the final judgment, and (2) the number of months between the petition to court and the date of the final judgment. The number of hearings prior to the final judgment may indicate an inability of parents to agree on important issues such as child support or child placement, though it may also be the result of other unrelated factors. Between Cohorts 17 and 18 and Cohort 24 the

Table 6
Indicators of Litigation and Legal Representation
by Time-Share Outcome at the Divorce Final Judgment and by Cohort

Time with Father Cohort	Indicators of Litigation								
	N Cases			N Hearings Prior to FJ			Months to FJ		
	17/18	21	24	17/18	21	24	17/18	21	24
0–20 percent	845	392	370	1.0	1.0	0.8	9.1	8.7	7.5
20–30 percent	92	53	48	1.3	1.1	1.3	9.5	9.1	9.7
30–45 percent	117	76	80	1.4	1.7	1.1	11.4	10.7	8.8
45–55 percent	265	275	199	1.1	1.1	0.9	10.3	9.7	8.4
55–80 percent	36	19	23	1.7	1.3	1.5	10.8	10.0	11.9
80–100 percent	127	53	35	1.2	1.0	1.1	9.5	8.8	9.7
All Cases	1558	900	786	1.1	1.1	0.9	9.6	9.1	8.3

Time with Father Cohort	Legal Representation of Parents at the Final Divorce Hearing*								
	Father Legal Rep			Mother Legal Rep			Both Legal Rep		
	17/18	21	24	17/18	21	24	21	24	
0–20 percent	47.0%	42.0%	33.2%	75.9%	65.7%	54.8%	41.5%	37.4%	27.8%
20–30 percent	65.5%	57.6%	59.7%	66.4%	70.1%	68.9%	51.1%	47.7%	52.8%
30–45 percent	80.1%	79.6%	62.8%	83.9%	84.2%	78.3%	73.4%	74.8%	60.4%
45–55 percent	71.7%	69.7%	55.9%	75.0%	66.0%	58.8%	63.9%	57.0%	44.5%
55–80 percent	81.5%	61.6%	63.7%	65.3%	48.0%	40.6%	60.0%	36.4%	40.6%
80–100 percent	72.5%	66.8%	66.3%	50.6%	41.9%	36.5%	38.7%	35.6%	33.8%
All Cases	58.0%	54.1%	45.6%	73.1%	65.4%	57.0%	48.5%	45.0%	37.0%

Weighted Data

Note 1: Unequal shared-placement cases where the exact time-share could not be determined were included in the 30–45 percent category for mother-primary cases, and the in 55–80 percent category for father-primary cases.

*Statistically significant reductions in legal representation from the prior cohort are shown in bold; $p < .05$.

number of hearings prior to final judgment fell for all except the 20 to 30 percent time-share level. Mother-sole placement with the father being ordered low levels (under 20 percent) of time-share show the lowest numbers of court appearances in all three cohorts. The next lowest levels of court appearances are half time-shared placement (45 to 55 percent time-share) and sole-father placement (80 to 100 percent time-share). It is the unequal shared placement, both with mother-primary, and father-primary that show the highest number of court appearances. It may be that the unequal shared-placement outcome is a compromise order or agreement between two parents who cannot agree on child support and/or child placement.¹⁰

Time Between Petition for Divorce and Final Divorce Hearing

Turning now to the number of months between the petition for divorce and the final divorce hearing, we note that this indicator could be affected by things not related to the litigiousness of the parents. For example, a backlog of court cases could lead to longer time periods unrelated to individual cases. It is possible, however, that a failure of agreement, and/or time spent in mediation (which may or may not have resulted in agreement), could add months to the finalization of the divorce. The number of months between petition and divorce does show a drop from Cohorts 17 and 18 to Cohort 21 (9.6 months down to 9.1 months), and then again from Cohort 21 to Cohort 24 (from 9.1 to 8.3 months). Consistent with the number of hearings prior to the divorce, the months prior to the divorce show the lowest level in the sole-mother placement category (0 to 20 time-share level with the father), and the next lowest levels generally are seen in the sole-father and half-time placement categories. Despite the overall decrease in time, the length of time increased in three categories: 20 to 30, 55 to 80, and 80 to 100 percent time-share.

The bottom panel on Table 6 shows the percentage of cases in each time-share outcome category in which the father, or the mother, or both parents, were represented by a lawyer at the final divorce hearing (categories not mutually exclusive). We note that more significant financial stakes may increase

¹⁰See Melli, Brown, and Cancian (1997), p. 788.

the incentive for parents to seek legal representation. Alternatively, parents with such representation may be more informed about, and more sensitive to, the change in the guidelines. This panel shows that there has been a reduction in legal representation over time, with statistically significant reductions between Cohorts 17, 18, and 21 for mothers, and between Cohorts 21 and 24 in all three groups of legal representation: fathers, mothers, and both parents. Considering changes in representation within given levels of time-share, we see statistically significant declines in representation in all categories for mother-sole custody cases and those with 45 to 55 percent time-share. In no category of time-share is there a significant increase in representation. We note, however, that the only categories in which there is a (statistically insignificant) increase in legal representation between Cohorts 21 and 24, is in the two outcome categories near the 25 percent time-share threshold: 20 to 30 percent time-share, and 55 to 80 percent time-share. The apparent increase in representation is only for fathers (and fathers and mothers together).

V. CONCLUSIONS

A steady growth in shared-placement divorce cases has occurred in Wisconsin over the last decade. These cases were characterized by high rates of equal shared placement and by low rates of child support orders. On January 1, 2004, the child support guidelines were changed. The new guidelines call for higher awards in equal shared cases in which the parents have different levels of income. The new guidelines also lowered the threshold for applying the shared placement formula from 30 to 25 percent time-share, and reduced the child support typically due in unequal shared placement cases at lower levels of shared-placement time-share. This examination of divorce cases in Cohort 24 provides the first indication of whether and how well the new child support guidelines are being adopted.

The Frequency of Shared Placement and Related Trends in Litigation and Legal Representation

The percentage of sole-placement cases, both sole-mother and sole-father, has continued to fall, being replaced by shared placement. Part of that increase between Cohorts 21 and 24 was due to the

expansion on the definition of shared placement; however, the percentage of cases consistent with the former definition of 30 to 50 percent time-share also continued to grow. The growth was greatest in the unequal shared–mother primary group.

Coincident with the continued growth in shared placement, we see a decline in legal representation and litigation between divorcing parents. Overall, both the number of hearings prior to final judgment and the percentage of parents with legal representation have fallen over time. However, we see suggestive differences by time-share that are consistent with a small recent increase in litigation and legal representation for parents in unequal shared placements.

The reduction in the threshold has not, to-date, had any substantial measurable impact on the percentage of cases with child placement outcomes that fall just slightly higher or slightly lower than the threshold. It may be that few lesser-time parents are negotiating for just enough time-share to significantly reduce their child support obligations, and few greater-time parents are negotiating for reduced time-share to insure maximum child support payments. Alternatively, it may be that within a given case, or across all cases, the changes in incentives faced by lesser-time and greater-time parents counteract one another.

There are some indications, however, that parents (and/or their legal advisors) are aware of the implications and connections between child placement and child support orders. First, the growth in shared placement was particularly noticeable for cases in which the lesser-time parent has a lower income than the greater time parent—cases in which the parents have the most to gain/lose by a time-share order of 25 percent or more. As noted above, we also find suggestive evidence of higher levels of legal representation for parents with placement outcomes near the threshold.

Use of the Guidelines in Shared-Placement Cases

In most equal shared-time cases no child support is ordered. We found only a small decline in the percentage of “no orders” in equal shared-time cases, despite higher child support order levels that would be generated by the new 2004 guidelines. The increase in child support orders in equal shared cases was due to increases in higher earning mothers paying support (from none in Cohort 21 to almost 5 percent in

Cohort 24). The continued high level of “no order” cases in Cohort 24 is notable given that the new guidelines call for higher orders—in only 43 percent of no-order cases is the expected order below \$100 per month, compared to 72 percent in the earlier cohort.

In unequal shared placement–mother primary cases we see a reduction in the percentage of cases with a child support order (there are too few father-primary cases to analyze separately). The new 2004 guidelines usually result in lower orders for these cases than previously. In most cases with orders (lesser-time) fathers are paying more than called for by the guidelines. The guidelines also call more frequently for child support to be paid by the greater-time to the lesser-time parent when the lesser-time parent has a lower income. It is notable that we find no case in which the (greater-time) mother is paying support to the father, despite the guidelines calling for support in almost 5 percent of mother primary–shared placement cases.

This report considers early evidence of changes in custody arrangements and use of the guidelines following the 2004 change in the shared-placement guidelines. Future research, considering later cases, should address whether the use of the new guidelines improves over time, and should follow up on the suggestive evidence provided here that the guidelines may be associated with higher levels of litigation near the shared placement threshold.

Issues to Explore in Future Studies

A number of conceptual issues related to the guidelines in shared placement cases also deserve consideration. First, the current formula produces a cliff effect (Brown and Brito, 2007). An alternative that avoids a cliff would increase equity between similar individual cases and might also reduce rates of legal representation and litigation for some parents. Second, the costs of shared placement are a little studied area (see Appendix 2). The current guidelines reflect an assumption of substantially (50 percent) higher total costs in shared placement cases, but it is not clear to what extent that assumption is justified. Finally, the very low level of use of the guidelines in equal shared cases further highlights the need to better understand parents’ current arrangements, expenditures, and preferences. The lack of orders

requiring a payment from the primary time parent in unequal shared-placement cases also deserves attention. Future research should explore the expenditure patterns of shared-time parents and the extent to which actual expenditures correspond with the assumptions underlying the guidelines.

Appendix 1
Percentage Adopting Shared Placement by Income Quintile, by Parent, and by Cohort

	Shared 25–75%		Mother-Primary 25–40%		Equal Shared	
	21	24	21	24	21	24
Mother's Incomes						
1st quintile	32.0%	29.3%	7.2%	8.2%	16.9%	14.5%
2nd quintile	27.8%	34.7%	5.9%	9.1%	17.2%	17.8%
3rd quintile	28.6%	36.8%	7.7%	9.3%	17.2%	22.8%
4th quintile	36.7%	49.9%	6.8%	7.1%	24.4%	30.3%
5th quintile	48.7%	55.1%	6.5%	11.8%	37.5%	35.7%
All cases*	34.5%	41.0%	6.6%	9.2%	22.4%	24.2%
Father's Income						
1st quintile	19.4%	24.7%	4.3%	8.8%	21.1%	12.7%
2nd quintile	23.5%	42.6%	5.0%	8.9%	15.7%	21.5%
3rd quintile	43.6%	43.0%	10.6%	6.1%	29.4%	28.9%
4th quintile	39.5%	41.7%	6.6%	7.3%	23.6%	24.3%
5th quintile	49.4%	58.1%	7.4%	14.9%	32.7%	36.6%
All cases*	34.5%	41.0%	6.6%	9.2%	22.4%	24.2%
Combined Incomes						
1st quintile	23.0%	28.0%	4.1%	10.9%	15.4%	12.5%
2nd quintile	24.0%	33.2%	7.7%	6.2%	13.1%	20.9%
3rd quintile	34.5%	46.3%	8.9%	7.2%	19.4%	26.4%
4th quintile	46.0%	39.9%	7.5%	7.3%	31.4%	24.9%
5th quintile	49.0%	63.2%	6.2%	13.8%	35.4%	39.4%
All cases*	34.5%	41.0%	6.6%	9.2%	22.4%	24.2%

Weighted data.

“Other” cases are not included in this table.

*The “all cases” row includes cases with missing income; about 5% missing for FAs, 3% for MOs, and 6–8% for combined incomes.

Appendix 2

Child support guidelines often reflect the assumption that shared placement is associated with higher total expenditures than sole-placement cases. The 150 percent multiplier imbedded in the Wisconsin shared-custody guidelines is based on the assumption that total expenses are greater for shared-custody cases, relative to sole-custody cases.¹¹ We do observe the tendency for higher income parents to adopt shared placement at higher rates than lower income parents. This can be seen in Appendix 1, which shows that in Cohort 21 less than 20 percent of fathers in the lowest income quintile had shared placement, while nearly 50 percent of fathers in the highest income quintile had shared placement. This may indicate a greater cost of shared placement. However, to some extent the higher rates of shared placement among higher income parents may, instead, be due to other characteristics related to income and the desire for shared placement—for example, to more rapid innovation adoption by higher educated parents, or to more flexible schedules of parents in professional careers. Moreover, the percentages of shared placement in Cohort 24 suggest shrinking differentials by income: about 42 percent of fathers in the second, third, and fourth income quintiles now have shared-placement arrangements upon divorce. The lowest quintile of fathers still has the lowest rate of shared placement (25 percent); however, even this is an increase (19 percent) from Cohort 21.

To our knowledge, there is little empirical evidence on the variation in expenditure patterns across placement types. Some expenses are likely to be close to perfect substitutes—that is, the more spent by one parent, the less that is required by the other. Other expenses are duplicative—increased expenditures by one parent will not affect those of the other, making shared placement a more expensive arrangement. In other cases total expenses may decline for shared-placement cases.¹²

¹¹In particular, Wisconsin administrative code, as cited by Brown and Brito (2007), notes: “The 150 percent accounts for household maintenance expenditures duplicated by both parents, such as bedroom, clothes, and personal items.” Wisconsin Department of Workforce Development 40.04, <http://www.legis.state.wi.us/rsb/code/dwd/dwd040.pdf>

¹²See Melli and Brown (1994) for a discussion of these economic considerations.

A few examples may clarify the difficulty of determining an overall standard with reference to how expenditures vary with placement. Meal expenditures might reasonably be considered to be substitutes that vary uniformly with placement time—that is, if one parent increases their time with the child by 25 percent, a reasonable estimate might be that the parent’s expenditures on the child’s meals would likewise increase by 25 percent, with the other parent’s expenditures falling by a similar amount. Thus, total food expenditures for a child might not vary substantially by placement.

In contrast, housing expenditures are likely to be duplicative. One parent’s increased expenditure may well not reduce the other parent’s, meaning that total housing expenditure might be expected to be higher for cases in which the child spends a substantial portion of time in two households. An additional complication is that some expenditures will not vary uniformly with percent of placement. Housing expenditures, for example, are likely to increase in steps. If a lesser-time parent already provides a child with their own bedroom and other furniture or accessories (sport equipment, musical instruments, etc.), additional time with that parent may not affect expenditures. The “tipping point” for such expenditures may vary, and may not correspond to the cutoff for shared placement.

Preliminary analysis of information from IRP’s PS4 and PS5 surveys of shared-placement parents, conducted in 2001 and 2004 on samples from Cohorts 17, 18, and 21, provides some suggestive evidence on the housing issue. Of mother survey respondents who indicated that they had care of their children for at least half time (N=706), 82 percent reported that the child had his or her own bedroom in their home; and of mothers who indicated that fathers cared for the child 21 to 30 percent of the time (N=95), 59 percent also reported that the father had housing where the child had a bedroom. Therefore, by mothers’ own reports, the majority of fathers who cared for their children at the 20 to 30 percent time-share level—a level below the definition of shared placement for purposes of a reduction in child support during that time period—were shouldering the burden of housing sufficient to provide the child with a room of their own. Fathers who responded to the survey reported even higher rates of maintaining housing where the child had their own room at low levels of time-share: 67 percent of those who had care of the child for 21 to 30 percent time (N=89) reported that the child had their own room.

Finally, there are some categories of expenditures that may decline when parents share placement. For example, if they are able to coordinate schedules, parents may reduce their combined use of child care when they share placement. Again, preliminary analysis of the PS4 and PS5 surveys suggest sole-placement mothers used an average of over 18 hours per week of paid child care (for children under age 12), compared to shared-placement mothers and fathers who reported using about 12 hours of total paid child care per week. Twelve to 15 percent of shared-placement parents reported being able to rely on the other parent for child care, compared to less than 3 percent of sole-placement mothers.

Since there is little systematic evidence regarding expenditures across placement types, both data and conceptual issues limit our ability to draw firm conclusions about the direct effect of changes in placement on expenses. To the extent that the guidelines work best if they closely reflect actual expenditures, more research is needed to understand the implications of shared placement.

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