

Child Custody and Divorce Settlements

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Child custody arrangements following divorce are important in determining the welfare of divorcing parties and their children. Previous research has established that there are differences in settlement awards among various custody types. This study investigates three types of custody, sole-maternal, sole-paternal, and joint custody. Results reveal that characteristics of the settlement are in fact different among the three custody arrangements.

Introduction and Literature Review

Child custody arrangements following divorce play an important part in determining negotiated settlements in the divorce process. Previous research has established that there are differences in legal, socio-economic, and personal characteristics among the various custody types.

Judicial decisions increasingly involve paternal and joint custody arrangements, not just maternal arrangements which has been the trend in the past. Furthermore, the divorce negotiation process has become more equitable through the removal of the maternal preference clause, use of a no fault procedure, and ability to receive joint custody at one parent's request. Despite these changes, however, awards of child support, assets, and liabilities are not distributed equally between mothers and fathers. Joint custody cases often require one parent to pay support to the other despite the presumption that care, custody and control are assumed jointly. This study compares sole-maternal custody with both sole-paternal and joint custody and investigates the distribution of property, the legal environment, and the socio-economic characteristics of the divorcing parties.

Methodology

This study looks at three types of custody: sole-maternal, sole-paternal, and joint custody (sometimes called shared parenting), using data from 453 court records from one urban Ohio county in 1991. The variables investigated include custody variables, legal process variables (use of attorney, procedure used), characteristics of the divorcing party (employment status, income, length of marriage), characteristics of the children (age, gender), and settlement variables (amount of child support, amount of property, home ownership).

Multiple comparisons procedures (Bonferroni for the continuous variables and Chi-square tests for the categorical variables) were used to analyze differences which occurred between the independent variables and custody type. The Bonferroni procedure compares the population means of continuous variables among the three custody groups to see which groupings of two differ. The Chi-square procedure tests for independence between two categorical variables. That is, whether custody type and other dichotomous variable are independent of each other.

Results

Results of the multiple comparisons procedures indicate that there are differences in characteristics of the divorcing parties' settlement awards by custody type. Results of the comparisons revealed the following differences in characteristics of the divorcing parties: father's employment status, mother's employment status, father's total income, mother's total income, marriage length, and number of children.

Neither father's nor mother's employment status was independent of custody type; a relationship exists. Father's total income among joint custody cases was significantly higher than father's income in both sole-maternal and sole-paternal cases. Similarly, among joint cases, mother's total income was higher than among sole-maternal and sole-paternal custody cases. Marriage length among couples awarded joint custody was significantly higher than sole-maternal custody cases. Finally, among sole-paternal cases, number of children was significantly higher than among joint custody cases.

Divorce settlement differences among the custody types included: father's net asset, award of child support, amount of child support awarded, award of home to father, and award of home to mother. Net assets awarded to the father were significantly lower among sole-maternal custody cases than either sole-paternal or joint custody cases. Award of child support was found to be not independent, and therefore related to custody arrangement. The amount of child support was significantly different among the three custody types. The amount of support awarded in the sole-paternal custody group was significantly lower than the joint custody group. Child support awarded to custodial parents in joint custody cases was higher

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than among sole-maternal cases. Award of the home was found to be not independent of custody arrangement. Therefore, a relationship exists between the two.

Conclusions

Research on custody following divorce has been an important issue of concern to researchers, legislators, judges, and attorneys. Custody and child support decisions following divorce affect the lives of everyone involved. It is important to understand the factors that impact custody decisions and issues related to divorce settlements.

Results of these analyses indicate that while equities in the negotiating process have improved, this study supports the notion that circumstances surrounding the custody issue are not the same for the various custody groups. Important differences in legal, socio-economic, and personal characteristics among the various custody groups exist. Research on the effects of these differences are to be fully understood.