



**California Center for Population Research**  
**University of California - Los Angeles**

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***Judith A. Seltzer***  
***Vida J. Maralani***

**CCPR-004-01**

***April 2001***

***California Center for Population Research***  
***On-Line Working Paper Series***

*Preliminary: Comments Welcome*

**Joint Legal Custody and Child Support Payments: Are There Lasting Custody Effects?**

Judith A. Seltzer  
Vida J. Maralani

Institute for Research on Poverty  
University of Wisconsin–Madison  
and  
Department of Sociology  
University of California–Los Angeles

June 29, 2000  
last revised: Sept. 24, 2000

A previous version of this paper was prepared under a contract between the Wisconsin Department of Workforce Development and the Institute for Research on Poverty. Any views expressed in the report are those of the authors and not the sponsoring institutions. The authors are grateful to Pat Brown, I-Fen Lin, and Christine Schwartz for assistance in preparing the paper.

## *Introduction*

This paper addresses the question: Does joint legal custody increase child support payments? It describes differences in formal child support payments for those with and without joint legal custody among divorce cases. It examines legal custody differences in the short-term after divorce as well as in the intermediate term, through the sixth year after divorce, to assess whether any economic benefits of joint legal custody endure through a significant part of childhood.

To the extent that legal custody differences in payments exist, we ask whether family and case characteristics, such as parents' incomes, number of children, and amount of child support orders account for these differences. Finally, the paper uses statistical methods that adjust for the fact that unmeasured characteristics may affect both the adoption of joint legal custody as well as higher child support payments. Ignoring these unmeasured differences may overstate the benefits of joint legal custody for child support payments. The paper aims to provide a less biased estimate of the effects of joint legal custody on child support payments than is available from most previous studies.

## *Effects of Joint Legal Custody*

Joint custody laws attempt to provide divorced and unmarried parents with the child-rearing rights and responsibilities that married parents have. Joint legal custody is the right to make decisions about a child's life, regardless of whether the child lives with the mother or father or spends time in each parent's home. In the majority of divorced families, children spend most of their time in one parent's, usually the mother's, home, even if their father remains involved in their lives. For instance, data from Wisconsin in the early to mid 1990s show that over 80 percent of families have sole physical placement at divorce. In 90 percent of these families, the children live with their mother. In another 8.4 percent of

divorced families, children had unequal-shared placement in which they spent significant time in each parent's home, but still spent most of their time with one parent (Cancian and Meyer 1998). Fathers who live apart from their children may see joint legal custody as recognition that they are still an important member of the child's family (Braver 1998). Joint legal custody may also affect mothers' understanding of the parents' rights after divorce because the designation of joint legal custodian provides information about the father's role in postdivorce childrearing. By formalizing nonresident parents' rights and responsibilities, joint legal custody may change both mothers' and fathers' behavior in ways that facilitate greater involvement of nonresident parents in children's lives. If advocates of joint legal custody are right, that it facilitates paternal involvement, families in which nonresident parents have joint legal custody should have greater paternal involvement throughout childhood, not just in the early postdivorce period.

Economic theory suggests that nonresident fathers are reluctant to pay child support because they cannot monitor whether the money is spent on the children or on goods that benefit their ex-wife (Weiss and Willis 1985). Evidence consistent with this explanation comes from a study which shows that when divorced fathers believe they have some control over how their children are raised, fathers are more likely to pay child support than fathers who believe they have no control (Braver et al. 1993). Thus, joint legal custody may increase child support payments by increasing fathers' participation in childrearing and by increasing their ability to monitor how child support money is spent.

Little is known about whether joint legal custody has lasting effects on childrearing after divorce.<sup>1</sup> Supporters of joint legal custody anticipate that benefits from joint custody will last throughout childhood. They expect that once parents establish a pattern of cooperation in childrearing, they will follow this as a habit as their children grow up. Alternatively the benefits to joint legal custody may diminish over time. As children get older, the challenges of raising them change. It may become less feasible for both parents to participate in decision-making as their teenage children become more independent and make more decisions on their own.

Past research on whether joint legal custody increases nonresident fathers' involvement with children after divorce shows that when fathers have joint legal custody, they spend more time with their children (Seltzer 1998). Evidence is mixed on whether joint legal custody also increases child support payments. Although Pearson and Thoennes (1988) find that joint legal custody increases compliance with child support orders, this finding has not been replicated in other studies (Albiston et al. 1990; Seltzer 1991; Seltzer 1998). One reason for the apparent inconsistencies in the empirical association between joint legal custody and child support compliance and payments may be differences across studies in researchers' ability to take account of differences among families that might account for both the adoption of joint legal custody and better child support outcomes.

Parents' incomes and other economic resources affect whether they acquire joint legal custody (Seltzer 1990; Seltzer 1991; Koel et al. 1998). Obviously, income also affects child support orders and

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<sup>1</sup>Most court-based studies follow families for only two or three years after divorce. National surveys, which may observe families for longer periods after divorce, are hampered by cross-sectional designs and reliance on self-reports about joint legal custody. Court records are likely to provide more complete and reliable information about legal custody arrangements than can be obtained from parents' reports about legal arrangements.

the ability to pay child support. Any evaluation of the effect of joint legal custody on child support outcomes must ask if higher child support orders and payments among those with joint legal custody can be explained by economic differences between the families who acquire joint legal custody and those who do not.

In addition to parents' economic characteristics, which are reasonably well documented in court-based studies of joint legal custody, the quality of parents' relationship with each other and with their children affect who seeks joint legal custody and nonresident fathers' involvement with children after divorce. State laws vary in how much latitude they give parents to select joint legal custody (Emery 1994: Table 4.1). Some states allow parents to choose joint legal custody while others assign joint legal custody to most families except under unusual circumstances. When parents are able to choose joint legal custody, families in which each parent wants the other to be involved in childrearing after divorce or who are able to cooperate well about childrearing may select joint legal custody as an affirmation of these preferences. For these families, joint legal custody and greater paternal involvement after divorce are both the result of parents' preferences and the quality of their relationship before separation. Compared to families in states that allow parents to choose joint legal custody, those in states which require that most divorcing parents adopt joint legal custody include more families in which parents do not trust each other and disagree about how to take care of their children.

A convincing answer to the question of whether the status of joint legal custodian increases nonresident parents' child support payments must take account of variation in the types of families who acquire joint legal custody. This can be done by directly observing the quality of family relationships and childrearing before divorce and assessing the effects on child-support compliance of joint legal custody

net of these family characteristics (Seltzer 1998), by using state differences in laws about who gets joint legal custody to control for the different types of families who acquire joint legal custody (Seltzer 1998) or by using within-state differences, such as county differences, in the application of custody policies to control for selection into joint legal custody. Wisconsin counties vary considerably in the allocation of shared physical placement (Melli et al. 1997). This paper shows that Wisconsin counties also differ in the allocation of joint legal custody. The analysis summarized below uses this variation as well as information about parents' economic circumstances and family composition. This takes account of the problem in much past research that the association between joint legal custody and child support outcomes may be biased because both custody and child support depend on common characteristics of parents or families.

### *Data and Analysis Strategy*

#### **Data Overview**

The analysis uses data from court documents and payment records summarized in the Wisconsin Court Record Database (CRD) for divorce cohorts 7 and 8. These are two cross-sectional samples of divorces involving minor children. The samples are drawn from 20 Wisconsin counties. Each cross-section is followed in data coded from administrative records for up to 7 years. Divorce cases in these cohorts have petition dates between 1986 and 1988. [See Brown and Roan (1999) for a description of the CRD.] Observations ended between June 1993 and May 1994. Cases in cohorts 7 and 8 have sufficient payment history information in the CRD to allow an investigation of the effects of joint legal custody on payments for six years after a family's divorce to evaluate both the potential short

and longer-term effects of joint legal custody. Using early cohorts for this report also provides a sample with sufficient variation across Wisconsin counties in the percentage of cases with joint legal custody at divorce. Variation on this characteristic is one component of the quality and likely success of the instrumental variables statistical technique used in this analysis (see below).

*Sample:* The analysis begins with a sample of 1056 cases of the original 1147 cases. This excludes: 42 cases (missing data on key variables) and 49 cases (uncommon custody and placement arrangements).<sup>2</sup> The majority of cases excluded due to custody arrangements were those in which parents had split physical placement (i.e., at least one child living with each parent). The small number of cases prevents a separate analysis of split placement. In addition, the CRD design, originally developed to study families in which only one parent owed child support, makes it extremely difficult to describe child support orders and payments for split custody families and others in which the obligor changes over the history of the case.

The analysis progresses in stages, which require adjustments to the starting sample size of 1056. As implied above, the analysis of child support orders and payments excludes 64 cases in which the person who owes child support changes over time. Part of the analysis is restricted to families in which all of the minor children live with the mother (i.e., sole physical placement to the mother). The rationale for this analysis decision is described below. Sample sizes may also vary because of missing data on the amount of child support owed or paid. Numbers of cases are reported in the tables. Finally, the

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<sup>2</sup>There are substantial missing data on parents' incomes for these cohorts. We retain cases with missing data on these variables because of the importance of parents' incomes for both the acquisition of joint legal custody and child support orders and payments. We replace missing data with the mean on income for mothers and fathers, and include in the analysis dichotomous variables to identify cases with imputed values on each income variable.

investigation of custody differences in child support payments by year since divorce uses two sampling strategies. In the first, sample size varies by years since divorce because some families are not observed for the whole six years and some families become ineligible for child support because all of their children are more than 18 years old. In the second, sample size remains constant across years because the analysis is restricted to families who had minor children and who were followed in the CRD for the full six-year period after divorce.

We report results for unweighted data. Extensive preliminary investigation showed only very minor differences in results when the CRD sample weight was applied. This is primarily because the weights are designed to adjust the relative proportions of different types of child-support eligible cases (paternities, divorces, etc.) to represent the population of all child-support cases in Wisconsin. This analysis is restricted to divorce cases, and therefore is unaffected by case-type stratification in the sample design.

*Timing of Observations:* Legal custody, physical placement, most family characteristics<sup>3</sup> and other aspects of the legal experience are measured at the time of the final judgment. For the 4 percent of cases without a final judgment, information is taken from the temporary order. The analysis controls for whether characteristics were measured at the temporary order. Payments are treated as annual child support payments for the first, third, and sixth year after the final judgment. These data come from the monthly child support payment records. Number of minor children refers to the year in which payments

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<sup>3</sup>Marital duration is an exception. It is measured at the time of the divorce petition, which is a better indication of when the parents decided to separate than the date of the final judgment.

are observed (e.g., payments in year 3 depend on the number of minor children in the family three years after the final judgment). Incomes, child support orders, and payments are reported in 1998 dollars.

*County Percentage of Divorces with Joint Legal Custody:* This variable indicates the degree to which joint legal custody is universal in each county. It is used in the instrumental variables analysis of the effects of joint legal custody on payments (see below). When joint legal custody is uncommon, there is probably greater selectivity in who adopts joint legal custody. Although most parents decide about legal custody arrangements themselves rather than judges deciding for parents, the Wisconsin legislature revised the statutes governing the adoption of joint legal custody around the time the families in this sample were divorcing. The revised statute specifies that the court may order joint legal custody if it is in the child's best interest as long as (a) parents agree or (b) parents do not agree, but one parent requests joint legal custody and the court finds that (i) both parents want to help raise the child and (ii) they will be able to cooperate with each other to make future decisions about the child (see 1987 Wisconsin Act 355). Prior to these changes, joint custody was only supposed to be awarded when the parents agreed to the arrangement.

The variable is the percent of cases in 1987 and 1988, during the debate and adoption of the more universal joint legal custody law, in each of the 20 counties for which joint legal custody was awarded at the temporary order. We use the custody arrangement at the temporary order instead of the final judgment because anecdotal reports from CRD data collectors report that in some counties judges routinely awarded joint legal custody at the temporary order, while in other counties judges were more likely to defer to the parents' requests. In addition, judges are likely to vary in their interpretation

of the revised joint legal custody statute and the conditions that they believe meet the requirements of future cooperation specified in the statute.

### **Analysis Plan**

The analysis has four parts. The first stage describes the legal and physical custody arrangements for the divorces in this sample. It also examines variation in child support orders by custody type and asks if income differences among families with different custody arrangements explain legal custody differences in child support orders. This lays the foundation for the second stage in which we examine custody differences in child support payments in the first, third, and sixth years after divorce. Here we ask if any observed custody differences are due to differences in parents' economic circumstances and child support orders. The next stage of the analysis is a multivariate analysis addressing the question: Who gets joint legal custody? The results inform the final stage, in which we use ask if joint legal custody affects child support payments once both measured and unmeasured differences among families are taken into account. We take account of unmeasured differences among families, such as attitudes about parental responsibility, in an instrumental variables analysis. This analysis assumes that coefficients for the effect on payments of the observed joint legal custody variable are probably upwardly biased because some of the same unmeasured characteristics of families that predict payments also predict who gets joint legal custody. The instrumental variables analysis essentially uses a predicted value of joint legal custody, which is purged of the variables that affect both custody and payments, if the instruments used to predict custody are valid. As noted above, we use as our instrument the percent of cases with joint legal custody at the temporary order after the law was

passed allowing joint custody even if the parents disagreed. Our choice of instrument is based on anecdotal evidence that judges in some counties routinely assign joint legal custody to all or most families in temporary orders. Some judges may require less evidence than others that parents who disagree about wanting joint legal custody will be able to cooperate in the future.

### *Results*

#### **Legal Custody, Physical Custody and Child Support Orders**

Table 1 shows the distribution of families' arrangements for legal custody and physical placement. The top panel shows the combination of legal custody and physical placement arrangements. About 38 percent of this sample have joint legal custody, regardless of where the children live. Just over three quarters of those with joint legal custody have physical placement with the mother (302/397). The most common arrangement in divorce cases in the second half of the 1980s was for mothers to have sole legal custody and physical placement. Nearly 57 percent of divorcing families in this sample adopted this arrangement. Approximately equal percentages of families in which physical placement was with the father had joint legal custody and father-sole legal custody, 5.5 percent and 5.9 percent. These patterns are generally consistent with those that Cancian and Meyer (1998) report for divorce cases around this period. Note that although equal-shared physical placement occurs in only 3.5 percent of these families, in some families identified in these data as having sole physical placement, children spend substantial time in each parent's home. Cancian and Meyer's (1998) findings suggest that unequal-shared placement occurs in between 4 percent and 5 percent of the families with sole placement.

Table 1 here.

Custody differences in child support orders are shown in Table 2. The top panel includes all five legal custody and physical placement types. The bottom panel contrasts joint and sole legal custody only for families in which sole physical placement is with the mother. The results in the top panel show that families are substantially less likely to have child support orders when fathers have physical placement or when parents have equal-shared placement, regardless of legal custody arrangement. Because in these data families with joint legal custody may have any of three physical placement arrangements, including sole-father and shared placement, the percentage of families with orders is somewhat less among those with joint legal custody compared to those in which mothers have sole legal custody (85.8 percent vs. 96.7 percent, respectively).

Table 2 here.

The pattern of physical placement differences for amounts owed also shows no difference in mean amounts owed for those with joint and sole legal custody when fathers have physical placement (\$974 joint legal vs. \$1,005 sole father legal; \$1,948 and \$2,010 among those with orders). The numbers of families in which the father has sole physical placement or parents share physical placement are very small, particularly once the sample is restricted to families with a child support order at the final judgment (47 cases sole-father physical placement, 12 cases equal-shared placement). These sample sizes are too small to support multivariate analyses.<sup>4</sup>

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<sup>4</sup>We also exclude them from the multivariate analysis because the evidence about lower percentages with child support orders and amounts owed suggests that family and court processes may have operated differently for these families than for families in which mothers have physical placement. How families and court systems function when fathers have physical placement and mothers are nonresident parents who owe child support is an important question for future research.

The bottom panel of Table 2 shows that nearly all families in which mothers have physical placement have child support orders, whether or not the parents have joint legal custody or the mother has sole legal custody. However, among those with child support orders, the mean amount owed is \$2,061 higher among those with joint legal custody than those in which mothers have sole legal custody (column 3).

Table 3 demonstrates that differences in fathers' incomes explain nearly all of the gap in amount of child support owed between those with and without joint legal custody. The first column of Table 3 repeats from Table 2 the mean differences in amounts owed (Table 2, bottom panel, column 2). The second column of Table 3 shows these differences adjusted for father's income at divorce. The custody difference in amount owed drops to only \$423, and is no longer statistically significant. This pattern is consistent with past research, which suggests that fathers' greater socioeconomic resources may explain the higher orders and payments among those with joint legal custody compared to families in which mothers have sole legal custody (Seltzer 1991).

Table 3 here.

### **Custody and Child Support Payments**

This section of the analysis describes custody variation in child support payments in the first, third, and sixth years after divorce. Table 4 shows these patterns for all families, whether or not they are observed for the full six-year period. Table 5 restricts the analysis to those observed for the entire six years. We report tests for whether mean differences are statistically significant for the contrast between joint legal and sole-mother legal custody among families in which mothers have physical placement. The dramatically lower payments of families in which fathers have physical placement compared to families

in which mothers have physical placement insure that F-tests of differences across the five legal and physical custody arrangements will be statistically significant.

Table 4 here.

For all families, regardless of custody arrangements, there is a decline with time since divorce in the percentage with any payments, the amount paid, and the amount paid among those with any payments for the year. In the first year after divorce, families got an average of nearly \$5,300 in formal child support (in 1998 dollars). By the third year, this had declined to \$4,350, and to \$3,468 by the sixth year (see Table 4, column 2). As we showed above for amounts owed, payment patterns are very similar for families in which fathers have physical placement, regardless of whether they have joint legal or sole legal custody. Fathers with sole legal custody and physical placement received \$1,331 in payments from their children's nonresident mother in the first year after divorce compared to \$1,781 for fathers in families in which mothers shared joint legal custody. In the third year after divorce, the legal custody difference was even smaller, \$1,182 compared to \$1,374.

In contrast, there are significant legal custody differences among families in which mothers had physical placement. When parents shared joint legal custody, nonresident fathers were more likely to pay child support and paid more support than when the mother had sole legal custody. In the first year after divorce, nearly 12 percent more fathers with joint legal custody paid support. By the sixth year the difference was substantially smaller although still favoring those with joint legal custody. The difference in amounts paid for families with any child support payments declines the longer parents have been divorced. In the first year, those with joint legal custody who got any payments received roughly \$1,860 more in child support. By the sixth year, this had declined to about \$950.

Table 5 shows that when one compares payments for families observed in all six years the results are similar to those in Table 4 for families in which mothers have physical placement. Payment receipt and the amount of support received decline over time. At each time, nonresident fathers with joint legal custody are more likely to pay support and pay more support than those without joint legal custody. The custody difference diminishes over time. Compared to mothers with sole legal custody, between 11 percent and 12 percent more mothers with joint legal custody receive support in the first and third years after divorce. By the sixth year, the joint custody advantage declines by about half to 6 percent. The custody advantage in amount received among those with any payments also declines, although the decline is larger between years 1 and 3, and there is a slight increase in the custody difference by year 6.<sup>5</sup>

Table 5 here.

The next table addresses the question: Do nonresident fathers with joint legal custody pay more support because they have higher child support orders than nonresident fathers without legal custody? Table 6 shows unadjusted and adjusted mean payments by legal custody type for the first year after divorce. Note that the unadjusted means for joint and sole legal custody in the first row are slightly different from the means for year 1 in Table 4 due to differences in the samples used. Table 6 excludes 57 cases without information on the amount of support owed. The custody difference in amount paid is the same magnitude in both tables, \$2,277 in Table 6 (\$7,273 - \$4,996), compared to \$2,448 in Table 4.

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<sup>5</sup>The results for year 6 in the last panel of Table 5 are the same as those in Table 4. Cases observed for six years are, by definition, present in all previous years.

The main information in Table 6 comes from comparing the means in the first and second rows. These show that once the amount of support owed is taken into account joint legal custody families have only \$532 more in child support payments than those in which mothers have sole legal custody (\$6,143 – \$5,611). Although this is a substantial reduction in the custody difference in payments, the remaining difference it is still statistically significant. Taking into account father's income reduces the difference still further so that it is no longer statistically significant by conventional standards. These findings suggest that at least in the early postdivorce period, the benefits of joint legal custody for child support payments can be explained by the higher incomes of nonresident fathers and the higher child support orders of those with joint legal custody compared to families in which mothers have sole legal custody. In the last stage of the analysis we ask whether family characteristics, such as father's income and child support orders, also account for higher child support payments several years after divorce.

Table 6 here.

### **Who Gets Joint Legal Custody?**

This section of the analysis sets the stage for an investigation of longer-term effects of joint legal custody on child support payments. In this section we describe differences in demographic and economic characteristics between families who adopt joint legal custody and those who do not. We examine joint legal custody among families in which mothers have sole physical placement, excluding the small numbers of cases in which fathers have primary physical placement. The results of this section inform the instrumental variables analysis of joint legal custody effects on payments several years after divorce. The instrumental variables models of payments require that at least one variable predicting joint legal custody be excluded from the prediction of payments. To predict custody we use county

differences in the percentage of cases with joint legal custody at the temporary order as a proxy for the degree to which joint legal custody is routinely assigned by judges. We exclude the county percentage variable from the predictions of child support payments. Table 7 shows county differences in the percentage of joint legal custody cases. These percentages range from about 18 percent to 65 percent, with a mean across counties of about 40 percent.

Table 7 here.

Table 8 describes the characteristics of families with and without joint legal custody. The table shows few differences in families by legal custody type, although the families do differ on several key characteristics. In addition to the higher incomes of fathers with joint legal custody, the table shows that parents with joint legal custody were more likely to own a home at the time of divorce than parents in families in which mothers have sole legal custody (62.1 percent vs. 45.4 percent). Parents with joint legal custody were also married almost a year longer before divorcing and were less likely to have been married previously. Not surprisingly, cases with joint legal custody have a somewhat higher mean on the county custody variable than do cases with sole-mother custody (45.1 percent vs. 36.8 percent).

Table 8 here.

The multivariate analysis of who gets joint legal custody is summarized in Table 9. This reports the parameters from a probit regression of joint legal custody on the family and case characteristics summarized in the previous table. Most aspects of family composition and parents' marital history do not affect whether or not a family gets joint legal custody at divorce. Only the father's previous marriage reduces the chance that the parents will share joint legal custody, perhaps because he is also responsible for children from his first family. As implied by the results in the first two stages of the

analysis in this report, father's income and home ownership increase the chance that a family has joint legal custody. Compared to families in which neither parent is represented by a lawyer, when only the mother has a lawyer, joint legal custody is less likely and when only the father has a lawyer, joint legal custody is more likely.

Table 9 here.

Finally, cases heard in counties where joint legal custody is commonly assigned at the time that the temporary order is issued are more likely to have joint legal custody at the final judgment than are cases in counties where joint legal custody is less commonly assigned. The significant association between whether a family acquires joint legal custody at the final judgment and the county percentage with joint custody at the temporary order increases the reliability of the instrumental variables analysis. The  $X^2$  test for the inclusion of the county percentage variable and the variables describing the sex composition of the children in the family, none of which we expect to affect child support payments directly, is statistically significant ( $X^2 = 66.45$ , 4 d.f.,  $p \leq .0001$ ).

### **Short and Longer-Term Effects on Child Support Payments of Joint Legal Custody**

The last stage of the analysis asks if joint legal custody increases payments immediately after divorce and in the longer-term, through the sixth year after divorce. We control for both observed differences among families with and without joint legal custody as well as unobserved differences in an instrumental variables analysis. Table 10 summarizes the results of a series of regressions, in which the dependent variables are child support payments in the first, third, and sixth year after divorce. The top panel shows the results for all families, whether or not they are observed for the entire six-year period.

The bottom panel shows the results for families observed for the entire period. The table includes the joint custody coefficients and standard errors from parallel analyses. The first includes the observed joint legal custody variable; the second includes the instrumented joint legal custody variable, estimated from a linear instrumental variables regression.<sup>6</sup> The Appendix Table includes all parameter estimates for payments in year six for both the observed and instrumental variables models.

Table 10 here.

Table 10 shows that there is no net association between either the observed or the instrumented joint legal custody variable and child support payments. The lack of association characterizes the results both in the short and longer-term period after divorce. Although we initially expected that taking account of unmeasured differences among families with different legal custody arrangements might reduce any potential association between joint legal custody and payments, the coefficients for the instrumented joint custody variable are generally larger in magnitude than those for observed joint legal custody. With one exception, the sign of the instrumented coefficients becomes negative, suggesting that, if any thing, families with joint legal custody may actually have lower child support payments than

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<sup>6</sup>Because joint legal custody is a dichotomous variable, we also estimated the predicted probability of joint legal custody from the probit regression described in Table 9. We then re-estimated each of the regressions summarized in Table 10 substituting this predicted probability of joint legal custody for the observed joint legal custody variable as an independent variable in a linear regression of the determinants of payments. The results of this alternate strategy for taking account of unmeasured heterogeneity are very similar to the instrumental variables results reported in Table 10, although in one regression the sign on the coefficient changed. We prefer the linear instrumental variables strategy summarized in the table to the strategy of using the predicted probability from the probit regression because the former provides consistent estimates of the standard errors for the coefficients in the payments equation. The latter does not. That both techniques produce similar results reinforces our conclusion about the general absence of a net joint legal custody effect.

families in which mothers have sole legal custody. The lack of statistical significance for these findings makes us reluctant to interpret this apparent pattern.

### *Summary and Conclusion*

We find that there are substantial differences in child support orders and payments for divorced families with different legal custody and physical placement arrangements. For Wisconsin divorces in the latter part of the 1980s, families in which fathers had primary physical placement were less likely to have child support orders, had lower orders, and were less likely to receive formal child support payments than families in which mothers had primary physical placement. The small numbers of cases in which fathers had physical placement in this sample prevented us from investigating whether joint legal custody increases nonresident mothers' child support payments.

Among families in which mothers had physical placement, nonresident fathers with joint legal custody owe and pay more formal child support than fathers without joint legal custody. Joint legal custody does not affect, however, the likelihood that a family has a child support order because child support orders were nearly universal among mothers with physical custody in Wisconsin by the mid-1980's. The higher incomes of nonresident fathers with joint legal custody compared to fathers in families where mothers have sole legal custody explains nearly all of the custody difference in amount of support owed.

The higher formal child support payments made by fathers with joint legal custody persist up through the sixth year after divorce. The magnitude of the joint custody advantage appears to diminish over time. The higher child support orders of families with joint legal custody explain some, but not all,

of the difference in payments for those with and without joint legal custody. Custody differences in father's incomes have a direct effect on the custody difference in child support payments, in addition to the indirect effect of father's income on payments because fathers with higher incomes owe more child support.

In multivariate analyses, we show that socioeconomic and demographic characteristics of families also explain the joint legal custody advantage for child support payments in later years after divorce. Once family characteristics and child support orders are taken into account, nonresident fathers with joint legal custody do not pay more child support than fathers without joint legal custody three or six years after divorce.

We speculated that some families choose joint legal custody because it is consistent with their beliefs that parents should share responsibility for children after divorce and that fathers should contribute to childrearing in economic and emotional ways even if their children do not live with them most of the time. If joint legal custody were selected to reaffirm parents' beliefs, higher child support payments among families with joint legal custody would be the result of the same beliefs that influenced parents' selection of joint legal custody in the first place. We used an instrumental variables strategy to take account of this potential selectivity in the adoption of joint legal custody. The results of the instrumental variables analysis were consistent with our findings about the association between a family's observed legal custody arrangement. That is, we find no evidence for either a short or longer-term effect of joint legal custody on formal child support payments among families in which children reside primarily with their mother.

Our findings suggest that advocates of joint legal custody exaggerate the likely benefits of this arrangement for formal child support payments, at least in Wisconsin. Wisconsin's system of child support enforcement is more effective than that in many states, in part due to Wisconsin's widespread use of immediate, routine withholding. Withholding limits nonresident fathers' discretion about whether and how much child support to pay. Therefore, Wisconsin fathers may have less discretion than divorced fathers in other states to adjust their child support payments depending on how well they think they can monitor or control how the child support payments are spent. If joint legal custody increases nonresident fathers' sense of control and identifies fathers to themselves — and their children's mothers — as legitimate decision-makers in children's lives, the effects of joint legal custody may be more readily apparent in behaviors other than paying formal child support, which allow fathers to choose how to contribute to raising their children. That other studies demonstrate that fathers with joint legal custody spend more time with their children than fathers without legal custody also suggests that the effects of joint legal custody may vary for different aspects of postdivorce childrearing.

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**Table 1. Legal Custody and Physical Placement, Wisconsin Divorce Cases, Entering Court 1986-1988.**

<b>Custody Arrangement</b>	<b>Percent (%)</b>	<b>Number of Cases</b>
<b>All Arrangements (N=1,056)</b>		
Mother Legal/Mother Physical	56.5	597
Father Legal/Father Physical	5.9	62
Joint Legal Custody, All Placement Types		
Joint Legal/Equal-shared Physical	3.5	37
Joint Legal/Mother Physical	28.6	302
Joint Legal/Father Physical	5.5	58
<b>Physical Placement, Regardless of Legal Custody (N=1,056)</b>		
Mother Physical	85.1	899
Father Physical	11.4	120
Equal-shared Physical	3.5	37

SOURCE: Wisconsin CRD, Cohorts 7 and 8. See text for an explanation of the sample.

NOTES: Custody and placement observed at the final judgment or at the temporary order if the case had no final judgment.

**Table 2. Child Support Orders and Amounts Owed by Legal Custody and Physical Placement, Wisconsin Divorce Cases, Entering Court 1986-1988.**

<b>Custody Arrangement</b>	<b>Percent with Child Support Order</b>	<b>Annual Amount Owed, 1st Year, All Cases</b>	<b>Annual Amount Owed, Cases with Orders</b>
<b>Legal Custody/Physical Placement</b>			
Mother Legal/Mother Physical	96.7%	\$5,528	\$5,727
Father Legal/Father Physical	53.7	1,005	2,010
Joint Legal Custody, All Placement Types	85.8	6,155	7,197
Joint Legal/Equal-shared Physical	34.3	1,159	3,379
Joint Legal/Mother Physical	97.6	7,593	7,788
Joint Legal/Father Physical	51.1	974	1,948
All Custody Types	90.3%	\$5,527	\$6,156
Number of cases	992	929	834
<b>Legal Custody, Mother Physical Placement</b>			
Joint Legal Custody	97.6%	\$7,593	\$7,788
Mother Sole Legal Custody	96.7	5,528	5,727
Difference (Joint-Sole)	0.9	2,065***	2,061***
Number of cases	858	800	775

SOURCE: Wisconsin CRD, Cohorts 7 and 8. See text for an explanation of the sample.

NOTES: Custody, placement and orders at the final judgment or at the temporary order if the case had no final judgment. Child support orders are in 1998 dollars. Table excludes cases in which the obligor changed during the period the case was observed.

\*  $p \leq .05$ ; \*\*  $p \leq .01$ ; \*\*\*  $p \leq .001$ ;

**Table 3. Child Support Orders and Amounts Owed by Legal Custody Arrangement, Wisconsin Divorce Cases Entering Court 1986-1988, Families with Mother Physical Placement.**

Custody Arrangement	Mean Annual Amount Owed, First Year	Mean Annual Amount Owed, Adjusted for Father's Income
<b>Legal Custody, Mother Physical Placement</b>		
Joint Legal Custody	\$7,593	\$6,526
Mother Sole Legal Custody	5,528	6,103
Difference (Joint-Sole)	2,065***	423
Number of cases	800	800

SOURCE: Wisconsin CRD, Cohorts 7 and 8. See text for an explanation of the sample.

NOTES: Custody, placement and orders at the final judgment or at the temporary order if the case had no final judgment. Child support orders are in 1998 dollars. Table excludes cases in which the obligor changed during the period the case was observed.

\*  $p \leq .05$ ; \*\*  $p \leq .01$ ; \*\*\*  $p \leq .001$ ;

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**Table 4. Child Support Payments by Legal Custody and Physical Placement, Wisconsin Divorce Cases, Entering Court 1986-1988.**

<b>Custody Arrangement</b>	<b>Percent with Any Child Support Payments</b>	<b>Mean Annual Amount Paid, All Cases</b>	<b>Mean Annual Amount Paid, Cases with Any Payments</b>
<b><i>FIRST YEAR AFTER DIVORCE</i></b>			
<b>Legal Custody/Physical Placement</b>			
Mother Legal/Mother Physical	85.2%	\$4,741	\$5,566
Father Legal/Father Physical	69.0	1,331	1,930
Joint Legal Custody/All Placement Types	94.6	6,648	7,029
Joint Legal/Equal-shared Physical	91.7	3,409	3,719
Joint Legal/Mother Physical	96.8	7,189	7,428
Joint Legal/Father Physical	69.6	1,781	2,559
All Custody Types	87.9%	\$5,299	\$6,025
Number of cases	896	896	788
<b>Legal Custody, Mother Physical Placement</b>			
Joint Legal Custody	96.8%	\$7,189	\$7,428
Mother Sole Legal Custody	85.2	4,741	5,566
Difference (Joint-Sole)	11.6***	2,448***	1,862***
Number of cases	832	832	741
<b><i>THIRD YEAR AFTER DIVORCE</i></b>			
<b>Legal Custody/Physical Placement</b>			
Mother Legal/Mother Physical	75.3%	\$3,845	\$5,104
Father Legal/Father Physical	58.6	1,182	2,017
Joint Legal Custody/All Placement Types	86.0	5,538	6,437
Joint Legal/Equal-shared Physical	63.6	1,452	2,282
Joint Legal/Mother Physical	89.4	6,052	6,768
Joint Legal/Father Physical	56.5	1,374	2,430
All Custody Types	78.5%	4,350	\$5,539
Number of cases	880	880	691
<b>Legal Custody, Mother Physical Placement<sup>b</sup></b>			
Joint Legal Custody	89.4%	\$6,052	\$6,768
Mother Sole Legal Custody	75.3	3,845	5,104
Difference (Joint-Sole)	14.1***	2,207***	1,664***
Number of cases	817	817	654

(table continued)

**Table 4 Continued.**

<b>Custody Arrangement</b>	<b>Percent with Any Child Support Payments</b>	<b>Mean Annual Amount Paid, All Cases</b>	<b>Mean Annual Amount Paid, Cases with Any Payments</b>
<b>SIXTH YEAR AFTER DIVORCE</b>			
<b>Legal Custody/Physical Placement</b>			
Mother Legal/Mother Physical	70.2%	\$3,388	\$4,830
Father Legal/Father Physical	50.0 <sup>a</sup>	853 <sup>a</sup>	1,707 <sup>a</sup>
Joint Legal Custody/All Placement Types	70.4	3,964	5,627
Joint Legal/Equal-shared Physical	0.0 <sup>a</sup>	0 <sup>a</sup>	—
Joint Legal/Mother Physical	76.2	4,410	5,784
Joint Legal/Father Physical	36.4 <sup>a</sup>	947 <sup>a</sup>	2,605 <sup>a</sup>
All Custody Types	69.5%	\$3,468	\$4,989
Number of cases	387	387	269
<b>Legal Custody, Mother Physical Placement</b>			
Joint Legal Custody	76.2%	\$4,410	\$5,784
Mother Sole Legal Custody	70.2	3,388	4,830
Difference (Joint-Sole)	6.0	1,022*	954
Number of cases	359	359	257

SOURCE: Wisconsin CRD, Cohorts 7 and 8. See text for an explanation of the sample.

NOTES: Custody and placements are observed at the final judgment or at the temporary order if the case had no final judgment. Child support payments are in 1998 dollars. Years are counted as time since the final judgment or temporary order if there was no final judgment. Table excludes cases in which the obligor changed during the period the case was observed. Data on payments are only available for cases with child support orders.

<sup>a</sup>Less than 15 cases in category.

\*  $p \leq .05$ ; \*\*  $p \leq .01$ ; \*\*\*  $p \leq .001$ ;

**Table 5. Legal Custody Differences in Child Support Payments When Physical Placement is with Mother, Wisconsin Divorces Entering Court 1986-1988 and Observed for Six Years.**

<b>Custody Arrangement</b>	<b>Percent with Any Child Support Payments</b>	<b>Mean Annual Amount Paid, All Cases</b>	<b>Mean Annual Amount Paid, Cases with Any Payments</b>
<i>FIRST YEAR AFTER DIVORCE</i>			
<b>Legal Custody, Mother Physical Placement</b>			
Joint Legal Custody	96.0%	\$6,431	\$6,696
Mother Sole Legal Custody	84.5	4,363	5,164
Difference (Joint-Sole)	11.5**	2,068***	1,532*
All	87.7%	\$4,945	\$5,635
Number of cases	359	359	315
<i>THIRD YEAR AFTER DIVORCE</i>			
<b>Legal Custody, Mother Physical Placement</b>			
Joint Legal Custody	88.1%	\$5,072	\$5,756
Mother Sole Legal Custody	76.4	3,786	4,958
Difference (Joint-Sole)	11.7*	1,286*	798
All	79.7%	\$4,148	\$5,207
Number of cases	359	359	286
<i>SIXTH YEAR AFTER DIVORCE</i>			
<b>Legal Custody, Mother Physical Placement</b>			
Joint Legal Custody	76.2%	\$4,410	\$5,784
Mother Sole Legal Custody	70.2	3,388	4,830
Difference (Joint-Sole)	6.0	1,022*	954
All	71.9%	\$3,676	\$5,115
Number of cases	359	359	258

SOURCE: Wisconsin CRD, Cohorts 7 and 8. See text for an explanation of the sample.

NOTES: Custody and placements are observed at the final judgment or at the temporary order if the case had no final judgment. Child support payments are in 1998 dollars. Years are counted as time since the final judgment or temporary order if there was no final judgment. Table excludes cases in which the obligor changed during the period the case was observed. Data on payments are only available for cases with child support orders.

\*  $p \leq .05$ ; \*\*  $p \leq .01$ ; \*\*\*  $p \leq .001$ ;

**Table 6. Unadjusted and Adjusted Annual Child Support Payments by Legal Custody Arrangement When Physical Placement is with Mother, Wisconsin Divorce Cases Entering Court 1986-1988.**

	<b>Legal Custody Arrangement</b>		<b>Statistical Significance of Difference</b>
	<b>Joint Legal Custody</b>	<b>Mother Sole Legal Custody</b>	
Amount Paid, Yr. 1, Unadjusted <sup>a</sup>	\$7,273	\$4,996	p ≤.001
Amount Paid, Adjusted for Amount of Support Order	\$6,143	\$5,611	p ≤.05
Amount Paid, Adjusted for Support Order & Father's Income	\$5,995	\$5,691	p ≤.15
Amount Paid, Adjusted for Support Order, Father's Income, Mother's Income, Number of Children, & Home Ownership	\$5,963	\$5,709	p ≤.25

SOURCE: Wisconsin CRD, Cohorts 7 and 8. See text for an explanation of the sample.

NOTES: Custody, placement and orders at the final judgment or at the temporary order if the case had no final judgment. Child payments orders are in 1998 dollars. Table excludes cases in which the obligor changed during the period the case was observed. Number of cases = 775.

<sup>a</sup>Means differ slightly from those in Table 4 due to differences in sample definition.

**Table 7. Percent with Joint Legal Custody by County, Wisconsin Divorce Cases Entering Court 1986-1988.**

<b>County</b>	<b>Percent (%)</b>	<b>County</b>	<b>Percent (%)</b>
County 1 (N=34)	38.2	County 11 (N=17)	29.4
County 2 (N=28)	17.9	County 12 (N=31)	35.5
County 3 (N=13)	23.1	County 13 (N=28)	42.9
County 4 (N=23)	26.1	County 14 (N=26)	26.9
County 5 (N=22)	54.5	County 15 (N=7)	28.6
County 6 (N=23)	34.8	County 16 (N=10)	40.0
County 7 (N=26)	65.4	County 17 (N=9)	33.3
County 8 (N=60)	56.7	County 18 (N=28)	60.7
County 9 (N=31)	32.3	County 19 (N=30)	30.0
County 10 (N=37)	27.0	County 20 (N=9)	33.3

SOURCE: Wisconsin CRD, Cohorts 7 and 8. See text for an explanation of the sample.

NOTES: Joint legal custody at the temporary order for cases with temporary orders in 1987 or 1988.

**Table 8. Description of Wisconsin Divorce Cases Entering Court 1986-1988 by Legal Custody Arrangements, Families with Mother Physical Placement.**

Characteristic	All	Joint Legal Custody	Mother Sole Legal Custody
<i>Family Characteristics at Divorce</i>			
<b>Family composition:</b>			
Number of minor children	1.83 (.829)	1.89 (.844)	1.80 (.820)
Age of youngest child (years)	6.12 (4.40)	6.24 (4.31)	6.04 (4.46)
All children are boys (1=yes)	.305	.314	.300
All children are girls (1=yes)	.295	.286	.300
Both boys and girls in family (1=yes)	.339	.350	.333
Missing sex of children (1=yes)	.061	.050	.067
<b>Marital history:</b>			
Marital duration at petition date (years)	9.86 (6.17)	10.4 (6.11)	9.54 (6.19)
Father was married previously (1=yes)	.149	.100	.175
Mother was married previously (1=yes)	.121	.100	.133
<b>Economic characteristics:</b>			
Father's annual income (in thousands)	31.6 (20.3)	37.2 (25.2)	28.6 (16.4)
Father's income is missing (1=yes)	.139	.075	.173
Mother's annual income (in thousands)	18.1 (10.8)	18.3 (9.97)	17.9 (11.3)
Mother's income is missing (1=yes)	.111	.125	.104
Parents owned home (1=yes)	.513	.621	.454

(table continued)

**Table 8. Continued.**

<b>Characteristic</b>	<b>All</b>	<b>Joint Legal Custody</b>	<b>Mother Sole Legal Custody</b>
<i>Divorce Case Characteristics</i>			
Neither parent had lawyer (1=yes)	.075	.079	.073
Only mother had lawyer (1=yes)	.295	.139	.379
Only father had lawyer (1=yes)	.070	.132	.037
Both parents had lawyer (1=yes)	.560	.650	.512
Case has only temporary order (1=yes)	.041	.021	.052
Year of final judgment			
1986	.063	.064	.062
1987	.416	.329	.463
1988	.405	.429	.392
1989 or later	.116	.179	.083
Percent in county with joint legal custody	39.7 (13.7)	45.1 (13.9)	36.8 (12.6)
<i>Number of Cases</i>	800	280	520

SOURCE: Wisconsin CRD, Cohorts 7 and 8. See text for an explanation of the sample.

NOTES: Characteristics observed at the final judgment or at the temporary order if the case had no final judgment. Incomes are in 1998 dollars. Standard deviations are in parentheses.

**Table 9. Probit Parameters for Regression of Joint Legal Custody on Family and Case Characteristics, Wisconsin Divorce Cases Entering Court 1986-1988, Families with Mother Physical Placement.**

Characteristic	Coefficient	Standard Error
<i>Family Characteristics at Divorce</i>		
<b>Family composition:</b>		
Number of minor children	.025	.083
Age of youngest child (years)	-.026	.022
All children are boys (omitted category)	---	--
All children are girls (1=yes)	-.012	.134
Both boys and girls in family (1=yes)	-.086	.149
<b>Marital history:</b>		
Marital duration at petition date (years)	-.005	.017
Father was married previously (1=yes)	-.397*	.159
Mother was married previously (1=yes)	-.138	.165
<b>Economic characteristics:</b>		
Father's annual income (in thousands)	.013***	.003
Father's income is missing (1=yes)	-.344*	.168
Mother's annual income (in thousands)	-.007	.005
Mother's income is missing (1=yes)	.043	.169
Parent's owned home (1=yes)	.363**	.119

(table continued)

**Table 9 Continued.**

<b>Characteristic</b>	<b>Coefficient</b>	<b>Standard Error</b>
<i>Divorce Case Characteristics</i>		
Neither parent had lawyer (omitted category)	--	--
Only mother had lawyer (1=yes)	-.780***	.211
Only father had lawyer (1=yes)	.706**	.262
Both parents had lawyer (1=yes)	-.243	.196
Case has only temporary order (1=yes)	-.569	.305
Year of final judgment		
1986 (omitted category)	--	--
1987	-.171	.233
1988	.128	.233
1989 or later	.331	.267
Percent in county with joint legal custody	.031***	.003
Constant	-1.55	.346
-2*log likelihood	825.1	

SOURCE: Wisconsin CRD, Cohorts 7 and 8. See text for an explanation of the sample.

NOTES: Characteristics observed at the final judgment or at the temporary order if the case had no final judgment. Incomes are in 1998 dollars. The model includes a variable to identify missing data on sex of child. Number of cases = 800.

\*  $p \leq .05$ ; \*\*  $p \leq .01$ ; \*\*\*  $p \leq .001$ ;

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**Table 10. Net Effects of Joint Legal Custody on Child Support Payments, Wisconsin Divorce Cases Entering Court 1986-1988, Families with Mother Physical Placement.**

Sample and Model Description	Coefficient	Standard Error
<b>ALL FAMILIES, REGARDLESS OF NUMBER OF YEARS FOLLOWED</b>		
<i>Payments, Year 1</i>		
Observed joint legal custody	57.6	209.3
Instrumented joint legal custody N = 775	-146.2	702.0
<i>Payments, Year 3</i>		
Observed joint legal custody	168.7	277.9
Instrumented joint legal custody N = 760	1570.4 †	945.3
<i>Payments, Year 6</i>		
Observed joint legal custody	-295.3	397.8
Instrumented joint legal custody N = 332	-1425.1	1196.2
<b>FAMILIES FOLLOWED FOR SIX YEARS</b>		
<i>Payments, Year 1</i>		
Observed joint legal custody	53.5	335.8
Instrumented joint legal custody N = 332	-1519.0	1028.7
<i>Payments, Year 3</i>		
Observed joint legal custody	-402.4	452.2
Instrumented joint legal custody	-650.6	1338.0
<i>Payments, Year 6</i>		
Observed joint legal custody	-295.3	397.8
Instrumented joint legal custody	-1425.1	1196.3

**Table 10. Continued.**

SOURCE: Wisconsin CRD, Cohorts 7 and 8. See text for an explanation of the sample.

NOTES: Characteristics observed at the final judgment or at the temporary order if the case had no final judgment. Child support payments are in 1998 dollars. Parameters are from linear regressions except where noted. All models of payments control for parents' incomes, whether income data are missing, whether the family owned at home at the time of divorce, amount of support owed, number of minor children, age of youngest child, marital duration, whether parents had been married previously, whether either or both parents had a lawyer at the divorce, whether the case has no final judgment, the year in which the final or temporary judgment was issued, and withholding. See the appendix for parameters for these variables. The joint legal custody model includes percent of cases with joint legal custody in the county where the parents petitioned for divorce and the sex composition of the minor children in the family, in addition to the variables included in the payments models, with the exception of the amount of support ordered and withholding.

†  $p \leq .10$    \*  $p \leq .05$    \*\*  $p \leq .01$    \*\*\*  $p \leq .001$

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**Appendix Table. Parameters from Regressions of Child Support Payments in Year 6 on Joint Legal Custody, Family and Case Characteristics, Wisconsin Divorce Cases Entering Court 1986-1988, Families with Mother Physical Placement.**

Characteristic	Observed Joint Legal Custody	Instrumented Joint Legal Custody
Joint Legal Custody	-295.3 (397.8)	-1425.1 (1196.4)
<b>Economic characteristics:</b>		
Father's annual income (in thousands)	63.0*** (15.8)	68.4*** (16.9)
Father's income is missing (1=yes)	-1895.3*** (500.2)	-1969.9*** (512.1)
Mother's annual income (in thousands)	33.1† (17.7)	33.4 † (17.9)
Mother's income is missing (1=yes)	-301.7 (583.2)	-263.3 (591.9)
Parents owned home (1=yes)	155.4 (401.7)	273.9 (423.7)
<b>Family Characteristics at Divorce</b>		
Family composition:		
Number of minor children	1018.3*** (262.7)	965.0*** (271.3)
Age of youngest child (years)	-51.3 (88.8)	-62.2 (90.6)
Marital history:		
Marital duration at petition date (years)	-77.2 (57.4)	-75.4 (58.2)
Father was married previously (1=yes)	-602.8 (503.8)	-592.0 (510.4)
Mother was married previously (1=yes)	-1231.6* (575.1)	-1246.0* (582.6)
<b>Divorce Case Characteristics</b>		
Neither parent had lawyer (omitted category)		
Only mother had lawyer (1=yes)	10.3 (617.0)	-301.8 (698.1)

(table continued)

**Appendix Table Continued.**

Characteristic	Observed Joint Legal Custody	Instrumented Joint Legal Custody
Only father had lawyer (1=yes)	-584.0 (864.2)	-443.3 (886.5)
Both parents had lawyer (1=yes)	525.8 (597.4)	402.5 (617.5)
Case has only temporary order (1=yes)	-5156.0*** (802.9)	-5248.8*** (818.4)
Year of final judgment		
1986 (omitted category)	--	--
1987	-277.1 (517.9)	-278.1 (524.6)
1988	-303.8 (776.9)	-202.6 (793.4)
Case has immediate withholding (1=yes)	312.4 (366.5)	215.7 (383.5)
Amount of support order	.298*** (.052)	.302*** (.053)
Constant	-533.8 (898.3)	-90.8 (1011.4)
R-squared	.495	.482

SOURCE: Wisconsin CRD, Cohorts 7 and 8. See text for an explanation of the sample.

NOTES: Characteristics observed at the final judgment or at the temporary order if the case had no final judgment. Child support and incomes are in 1998 dollars. Standard errors in parentheses. N = 332. Only cases with final judgments before 1989 are observed for six years in these data.

The instrumental variables model (results in column 2) treats joint legal custody as a function percent of cases with joint legal custody in the county where the parents petitioned for divorce and the sex composition of the minor children in the family, in addition to the variables included in the payments models, with the exception of the amount of support ordered and withholding. The  $X^2$  for the inclusion of the variables unique to the custody equation is 66.45, 4 d.f.,  $p \leq .0001$  (N=800).

†  $p \leq .10$ ; \*  $p \leq .05$ ; \*\* $p \leq .01$ ; \*\*\*  $p \leq .001$