

## Minority Report for the Maryland Commission on Child Custody Determinations (Corrected on 11/19/14)

At the five public hearings before the Commission in the Fall of 2013, more than 70 percent of fathers, mothers and other testifiers spoke in favor of a Rebuttable Presumption for Shared Parenting. This is not reflected in the Majority Report of the Commission, which had the opportunity to endorse a Rebuttable Presumption for Shared Parenting.

The evidence is overwhelming that children who are raised by two parents are generally less violent, less subject to abuse, more academically successful, less likely to wind up in prison and more psychologically competent, than children raised by single parents. This is currently true of children with two parents, which will likely also include children of same sex parents, as research becomes available.

The Cost to Maryland taxpayers of these problems for children is estimated to cost several billion dollars a year for more prisons, psychological services, abuse treatments, lost income from inadequate education, half-way houses, and other programs and services. These costs mean higher taxes.

The situation in Maryland and has received national attention.

A column in the Baltimore Sun on October 8, 2014 authored by Ned Holstein, founder of the National Parents Organization, cited three separate and independent groups of experts that reviewed decades of child development research. They found that after parents separate or divorce, children do much better with shared parenting - joint custody - on multiple measures of well being than with single parenting.

For instance, according to the U.S. Centers for Disease Control and Prevention, the U.S. Department of Justice and the U>S> Census Bureau, children raised by single parents account for:

- 63 percent of teen suicides
- 70 percent of juveniles in state-operated institutions
- 71 percent of high school dropouts
- 75 percent of children in chemical abuse centers
- 85 percent of those in prison
- 90 percent of homeless and runaway children

It is surprising that most people in Maryland do not know that Maryland is not a shared parenting state. We know this from informal polls taken while talking to people in various parts of the state. Rebuttable Presumption does not mean that shared or co-parenting is mandatory. Mandatory is a term used by our opponents. Rebuttable Presumption only means that children are entitled to frequent and continuing contact with both divorced, separated, or never-married parents as a "starting point" - the normal order by a court or agreement between the parents. A variety of arrangements is possible to suit the needs of the family.

If there is abuse, neglect, parental kidnapping or other disabling issue, then shared parenting - or sole guardianship - are not appropriate for the offender. Children must be protected, because children are our focus, first and foremost.

This is not a fathers' issue or a mothers' issue: it is a civil rights issue --- a oral imperative of our times for the most precious of our assets, our children.

Our children invariably want the love and protection of both parents, and children's books always talk about the wish of children for their parents to both love them. We need to do more in Maryland to assure that such love can be freely provided, without interference of one parent, against the other parent, without alienating a child against a fit parent, and without prohibitive court battles which only benefit family law attorneys. Again, abuse, neglect and kidnapping of children are always relevant.

It is crucial to understand that shared parenting is not so much for the 5 percent to 10 percent of parents who litigate, but for the 90 to 95 percent of parents who do not litigate, but who "bargain in the shadow of the law", a term initiated by researcher Robert Mnookin.

Bargaining in the shadow of the law means that when parents divorce, what they agree to must be o.k.'ed by the state. If agreements do not include both parents in the lives of the children, the court may change that - depending on the court system. Research shows that in Maryland, mothers obtain sole custody 5 to 1 over fathers. We do not seek to have that reversed, so that fathers predominantly obtain sole parenting responsibilities. We want the "first option" to be a rebuttable presumption for the love, affection and attention of both parents, whether biological or non-biological. It is disabling to think otherwise.

A rebuttable presumption for shared parenting, unfortunately, does not appear to resonate with the majority of the Maryland Commission on Child Custody Determinations. So we Commissioners are presenting this minority report, which we hope will be acted on by the 2015 Legislature and the Courts.

We agree with many of the majority's recommendations for more mediation, education, and for frequent and continuing contact of a child with both parents; but we dissent because there is no definition of continuing contact, e.g. Rebuttable Presumption.

Signed

David L. Levy, J.D., Commissioner  
Children's Rights Fund for Maryland

Wayne Beckles, Commissioner  
Dean, Baltimore City Community College