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Research Article

Increases in shared custody after divorce in the United States

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Increases in shared custody after divorce in the United States

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Abstract

BACKGROUND

While a striking rise in shared physical custody after divorce has been observed in Wisconsin and some European countries, the same trend in shared custody has not been documented in US national data.

OBJECTIVE

We provide new evidence on the time trend in shared physical custody after divorce in the United States.

METHODS

We use eight waves of data from the Current Population Survey – Child Support Supplement to estimate logit models and conduct a formal decomposition.

RESULTS

The likelihood of shared physical custody after divorce more than doubled in the United States from before 1985 until 2010–2014, from 13% to 34%. Non-linear probability (logit) models show that non-Hispanic Whites and more advantaged individuals are more likely to report shared physical custody. Both sequential multivariate models and a more formal decomposition show that the increase cannot be explained by changes in the characteristics of those divorcing; rather we find that several characteristics become more strongly associated with shared physical custody over time.

CONCLUSIONS

Our results suggest that shared physical custody is increasing in the United States as a whole, and this increase appears to reflect changing norms and policies that favor shared custody. These changing patterns have important implications for children's living

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arrangements and for the parental investments that children receive after their parents' divorce – and more broadly for the rise in inequality across families over recent decades.

CONTRIBUTION

This paper complements previous analyses using court record data from a single US state (Wisconsin) and shows that a large increase in shared physical custody after divorce has occurred in the United States as a whole over the past three decades.

1. Background

Current estimates are that one-third of US children who were born into marriage will experience their parents divorcing before they reach age 15 (Andersson, Thomson, and Duntava 2017). Because divorce is a legal process, when it occurs the care of and responsibility for children are divided between both parents via a legal agreement. Typically, this legal agreement specifies which parent(s) the child will reside with (physical custody) and which parent(s) will have responsibility for major decisions (legal custody). Since at least the late 1800s, mothers in the United States have been much more likely than fathers to be awarded sole physical custody of children (Buehler and Gerard 1995), although that appears to be changing, at least in some locations. Using detailed court record data, Meyer, Cancian, and Cook (2017) found that in one US state – Wisconsin – the proportion of parents sharing physical custody after divorce increased dramatically between 1988 and 2010, while the proportion of mothers with sole custody declined (and the proportion of fathers with sole custody remained the same). For Wisconsin divorces filed in 2010, they found that fully 50% of all cases had a shared-custody arrangement (35% equal-shared and 15% unequal-shared), compared to only 12% of divorces filed in 1989 (5% equal-shared and 7% unequal-shared). This dramatic increase does not appear to be due to changes in the characteristics of those divorcing but rather to changes in the norms and processes that surround custody determination (Cancian et al. 2014).

While this rise in shared custody after divorce in this single US state (Wisconsin) is striking, and some European countries also have high and rising levels of shared custody (Zilincikova 2021), the same level of shared custody has not been documented in US national data. This is largely because there are limited data resources that facilitate analysis of shared physical custody at the national level. To our knowledge, the Current Population Survey – Child Support Supplement (CPS-CSS), administered every two years, is the only nationally representative dataset that includes this information, and the trends in shared physical custody per se have not yet been analyzed. Biennial reports released by the Census Bureau summarize key findings from this child support

supplement (most recently, Grall 2020), but physical custody has not been differentiated from legal custody. Thus, Grall (2020) finds that in 2017 25% of all custodial parents reported court-ordered “physical or legal joint custody” compared to 23% in 2001, but it is unclear whether the slight increase was for joint legal custody, joint (shared) physical custody, or both. Understanding whether the prevalence of shared physical custody has increased over time – and factors that might be associated with such – requires detailed analyses of the CPS-CSS microdata, and we believe that our paper provides the first such estimates.

Whether children are likely to share time living with both parents is an important topic because greater co-parenting and higher levels of father involvement after parental separation or divorce have been linked with better child and adolescent outcomes across a host of domains (e.g., Amato 1994; Carlson 2006; Jaynes 2015, Teubert and Pinquart 2010). Further, a recent meta-analysis of 40 studies suggests that shared custody is linked with children’s better socioemotional, psychological, and physical wellbeing, as well as closer relationships with fathers (Nielsen 2014), and a recent study in Sweden suggests that children in shared custody arrangements experience lower levels of stress (Turunen 2017). In this paper we aim to extend the literature on shared physical custody after divorce by using national US data to examine the patterns and predictors of shared custody in recent decades.

2. Shared custody and prior research

Divorce agreements typically include provisions for legal custody and physical custody, and these can be awarded to either parent solely or to both parents together (joint or shared). Joint legal custody had become the default preference in three-quarters of US states by 1988 (Mason, Fine, and Carnochan 2001), and by the late 1990s joint legal custody was granted in nearly half of all US divorces (Seltzer 1998) and over 70% of divorces in Wisconsin (Chen 2015) – the US state where the most research on shared custody has occurred. Changes in shared physical custody arrangements emerged later. Historically, US fathers were more likely to be given legal and physical custody of children, until the default changed to mothers during the Victorian era amidst growing cultural emphasis on mothers’ special role in childrearing and home production. After US divorce rates began their dramatic rise in the 1960s, and women increasingly entered the labor force, states enacted laws that supported shared physical custody of children in divorce. The first state to enact such a provision was Indiana in 1973, and the last was Arkansas in 2003 (Halla 2013).⁴ Certainly, the availability of legal options related to

⁴ Halla (2013) reports that Washington and West Virginia are two states that never enacted explicit shared custody laws.

shared physical custody is expected to affect their use and prevalence. Today, custody decisions are generally made based on the ‘best interests of the child,’ which consider circumstances of the parent(s) and children and prioritize the child’s safety and wellbeing (Child Welfare Information Gateway 2016). While legislation on the factors to be considered in setting custody is the same for divorce and cohabitation dissolution, in the United States cohabiting parents have far fewer legal rights after union dissolution than married parents (Katz 2015).

2.1 Levels of shared physical custody

Much of what we know about the prevalence of shared physical custody comes from studies of particular states, especially Wisconsin, where detailed court record data on divorces have been collected by UW-Madison’s Institute for Research on Poverty, and scholars there have been highly engaged in analyzing these data.⁵ In the early 1980s only 2% of divorce cases were awarded equal shared physical custody (Seltzer 1990). This figure had increased to 6% by the early 1990s (Cancian and Meyer 1998), and over the next two decades the proportion of equal shared custody cases increased dramatically to 35% in 2010 (Meyer, Cancian, and Cook 2017). Unequal shared custody (where the child spends 25%–49% of the time with one parent and 51%–75% with the other parent) also increased from 8% of divorce cases in 1986–1987 (Cancian and Meyer 1998) to 18% in 2008, and then leveled off at 15% in 2010 (Meyer, Cancian, and Cook 2017). Therefore, fully half of all Wisconsin divorce cases in 2010 resulted in shared physical custody between both parents (either equal shared or unequal shared).

In terms of US national data, published figures from the CPS-CSS suggest that about 25% of all custodial parents (and 31% of custodial parents with a child support agreement) had court-ordered legal or physical shared custody in 2017 (Grall 2020). However, these percentages are not comparable to the Wisconsin data for four reasons. First, as noted above, they combine physical and legal arrangements. Second, these data are for all custodial parents and not only for divorced parents. Third, these numbers provide information on the current ‘stock’ of custodial parents who separated over many years, while the Wisconsin numbers are from recent divorce cohorts. Finally, the unit of analysis in the Wisconsin data is a divorce case (so provides information on both parents), whereas the unit of analysis in the national data is a custodial parent (so no information on the other parent is included).

In a cross-national context, there is notable variation in shared physical custody across industrialized countries, with a higher prevalence in northern and central European

⁵ The Wisconsin Department of Children and Families has commissioned a substantial amount of research on child support; many of these reports can be found at <https://www.irp.wisc.edu/research/child-support>.

countries and Canada, and a much lower prevalence in southern and eastern European countries (Steinbach, Augustijn, and Corkadi 2020; Zilincikova 2021). Yet, there is limited comparable data. One recent study based on reports by youth in non-intact families finds that across 37 countries the overall average percentage of non-intact families that have equal shared physical custody is 6%; the highest percentages were found in Sweden (21%), Belgium (14%), Iceland (12%), Denmark (10%), and Canada (10%), while more than two-thirds of countries had less than 5% (Steinbach, Augustijn, and Corkadi 2020). Analyses of divorces and cohabitation dissolutions in nine European countries shows that the prevalence of shared custody has increased substantially over time, but there is no significant difference between married and cohabiting parents (Zilincikova 2021).

2.2 Predictors of shared physical custody

The research on shared custody has typically focused on couples who divorce, rather than couples who dissolve a cohabiting union (though see Zilincikova 2021). In part, this reflects that divorce is a legal process, and thus a body of laws applies, whereas cohabitation dissolution does not typically require legal action, even if children are involved. In the United States, cohabiting parents have few legal rights compared to married parents (Cherlin 2020; Katz 2015). Also, there are no comparable administrative records for cohabitation dissolution, and few US surveys ask about shared arrangements and parenting after a cohabitation ends. Therefore, little is known (at least in the United States) about formal physical custody arrangements after cohabitation dissolution.⁶ European studies sometimes include couples separating from both cohabiting and married relationships and, as noted above, a recent study by Zilincikova (2021) across nine European countries finds no significant difference between married and cohabiting couples in the establishment of shared physical custody.

Which couples get shared custody after divorce may depend on the characteristics of those who divorce. We know that marriage – a necessary precursor to divorce – has become more selective over time, with higher-educated individuals now more likely to marry than those with less education (Boertien and Härkönen 2018), a reversal of the negative educational gradient in marriage that was observed in the United States from the mid-20th century (Torr 2011). Divorce has also become more selective over time; for example, education is linked with a lower likelihood of divorce, because higher-educated

⁶ We note that in some states, nonmarital couples who have paternity established by the court or who come to court for a child support order could have custody set. In Wisconsin these records show the likelihood of shared custody was 8% in 2013 for cases in which paternity was established by the court and 24% for cases in which paternity was voluntarily acknowledged (Costanzo and Reilly 2021).

couples typically have better relationship quality and also greater barriers to divorce (e.g., joint home ownership) (Boertien and Härkönen 2018). Also, divorces are now happening at older ages (Schweizer 2020). Changes in the characteristics of those getting a divorce could have implications for the likelihood of shared custody, as we discuss below.

The acceptance of and preference for shared physical custody have evolved in tandem with public policies supporting such arrangements (Halla 2013). Beyond contextual factors, the likelihood of a judgement of shared physical custody after divorce is influenced by couple-level and individual-level factors. Economic perspectives emphasize the relative and absolute levels of resources within couples. Couples where market work and household labor are shared pre-divorce are more likely to have shared custody post-divorce – this could reflect bargaining power amidst lower gender specialization of tasks (i.e., men who were active co-parents before divorce can argue more strongly for shared custody), or that couples are simply enacting their preferences for shared parenting both before and after divorce. Also, a higher overall level of economic resources would lead to a greater likelihood of shared custody because this arrangement requires both parents to have homes of sufficient size for the child(ren) to live: Higher income is shown to be a consistent predictor of shared custody arrangements (Cancian and Meyer 1998; Cancian et al. 2014; Juby, Le Bourdais, and Marcil-Gratton 2005; Kitterød and Lyngstad 2012; Meyer, Cancian, and Cook 2017). Also, more highly educated parents are more likely to value shared parenting and higher levels of father involvement (Juby, Le Bourdais, and Marcil-Gratton 2005). Because those with more education are more likely to be awarded shared custody, and because education levels are rising over time (for those getting divorced as well as the general population), the increase in shared custody could merely reflect changing characteristics of divorcing individuals, rather than any change in the relationship between parents' characteristics and the likelihood of shared custody. At the same time, we might expect that certain characteristics (such as education) have become more strongly linked with shared custody over time, given the rising gap in family experiences by socioeconomic status (Lundberg, Pollak, and Stearns 2016; McLanahan 2004).

Parents' past union and fertility histories may also influence custody decisions, with prior childbearing associated with a lower likelihood of shared custody (Cancian et al. 2014; Garcia-Moran 2018; Kitterød and Lyngstad 2012). Also, children's characteristics and preferences may be important: Older children and children in middle childhood often want to be involved in decisions about custody arrangements and often influence these outcomes (Berman 2018). While child age and gender might be expected to matter, with boys and older children preferring more time with fathers and hence predicting shared custody, recent research shows little consistent influence of child gender and age on custody outcomes (Meyer, Cancian, and Cook 2017).

In this paper we provide new evidence about the patterns and predictors of shared physical custody in the United States using eight waves of nationally representative data from 1994 to 2014, covering divorce cohorts from before 1985 through 2010–2014. We address four research questions. First, we evaluate the national time trend in shared physical custody over the past 30 years. Second, we explore the individual characteristics that predict a greater likelihood of shared custody, with a particular focus on whether the time trend can be explained by changing characteristics among those divorcing. Third, we conduct a non-linear Oaxaca-Blinder decomposition analysis to evaluate more formally whether the (presumed) national rise in shared physical custody is due to changing population composition or to changing associations between characteristics that predict shared custody (e.g., education) and the likelihood of having shared custody. Fourth and finally, we assess whether the national trend differs from that in Wisconsin – the US state about which we have the most research documenting a notable rise in shared physical custody.

3. Data, measures, and methods

3.1 Data

We use data from the Child Support Supplement of the Current Population Survey for years 1994 through 2014. Fielded in April 1979 and 1982, and every other year thereafter, the CPS-CSS is a biennial survey that focuses on gathering data on child support and other issues in separated families. Individuals are eligible to participate if they are age 15 or older and live with their own child(ren) (under age 21) whose other parent is absent from the household. This information complements data collected in the CPS Annual Social and Economic Supplement, fielded in March, which provides information about income sources in the previous calendar year.

We use data from the CPS-CSS taken in eight survey years: 1994, 1996, 1998, 2004, 2006, 2008, 2010, and 2014 (years with consistent data), based on public use files available at NBER (https://data.nber.org/data/cps_index.htm).⁷ Each survey includes information about divorces that occurred at any time prior to the survey as long as a child was age 21 or less at the time. We examine all parents with a resident child who responded to the survey indicating that at least one of their resident children had a parent who was living outside the household. We include only custodial parents who had been divorced;

⁷ A major change in the survey occurred in 1994, making it difficult to compare to prior years; we also exclude the surveys in 2000, 2002, and 2012 because they do not have consistent information on respondents' year of separation and divorce.

this includes those currently divorced or remarried after having been divorced.⁸ We calculate the proportion of these parents who reported that they had shared physical custody, and whether this differs by the year of divorce and by other characteristics. We sort the data by year of divorce; given the relatively small number of divorce cases in any one year of the CPS within each state, we pool divorce years into 5-year groups.⁹

3.2 Sample

In our main sample we include any ever-divorced custodial parent of a minor child across all of the survey years we examine. Table 1 provides information about our sample, overall and by divorce year group. For the sample overall (first column), there were 18,757 ever-divorced custodial parents. The majority of these custodial parents (79%) were mothers (versus fathers).¹⁰ In terms of age at divorce, 37% were age 29 or younger, 44% were ages 30–39, and 19% were age 40 or older. The majority of the sample (76%) was white non-Hispanic, 10% was black non-Hispanic, 5% was other non-Hispanic, and 10% was Hispanic; 8% was foreign-born. There is notable variation in education – 9% with less than high school, 34% with a high school degree, 36% with some college, and 21% with a bachelor’s degree or higher. With respect to marital status at the time of the survey, the majority of respondents (70%) indicated that they were currently divorced, and 30% were currently (re)married. The average number of children is 1.61, and the gender composition of children is rather evenly divided between mixed, all female, and all male. Overall, 22% of the full sample reported that they were awarded shared physical custody.

⁸ We are able to identify the year of the most recent divorce, but a limitation of these data is that we may have the wrong year that a child’s parents divorced if the custodial parent was divorced more than once. Moreover, a nonmarital child born after a divorce may be incorrectly assigned as a child of divorce. Custodial parents who remarried after a divorce and were subsequently widowed ($n = 116$) are excluded from our analysis sample because of the difficulty identifying whether the child’s parents were previously married to each other.

⁹ We construct cohorts from repeated cross-sections; to ensure sufficient cases for the analyses we want to conduct we keep any case that meets our inclusion criteria, rather than attempting to include only the ‘flow’ (those who were recently divorced in the year of the survey). This approach means that a custodial parent who had young children at the time of divorce could enter our data multiple times, and this could bias our estimates if, for example, custody arrangements do not change over the life of a case, but the probability of shared custody is strongly related to the child’s age at the time of divorce. We have checked the robustness of our results compared to an analysis sample in which we include only the flow of divorces (i.e., recent divorces before each survey). Because the results were quite similar, we keep the larger sample for analysis.

¹⁰ The CPS-CSS has not historically identified same-sex couples, so we are not able to analyze them.

Table 1: Description of custodial parent sample, overall and by divorce year group

	Divorce Year Groups							Overall
	Before 1985	1985– 1990	1990– 1994	1995– 1999	2000– 2004	2005– 2009	2010– 2014	
	% or M	% or M	% or M	% or M	% or M	% or M	% or M	% or M
Gender								
Female	79.4%	78.9%	79.7%	77.7%	78.7%	77.0%	75.1%	78.5%
Male	20.6%	21.1%	20.3%	22.3%	21.3%	23.0%	24.9%	21.5%
Age at divorce								
Less than 30	65.8%	50.6%	40.0%	32.1%	28.3%	22.9%	17.0%	37.0%
30–39	30.7%	41.8%	45.9%	48.6%	43.8%	43.9%	40.1%	43.6%
Above 40	3.5%	7.5%	14.1%	19.3%	27.9%	33.2%	42.9%	19.4%
Race/ethnicity								
White non-Hispanic	75.7%	79.2%	78.9%	77.0%	74.2%	72.5%	69.9%	76.3%
Black non-Hispanic	11.3%	9.9%	9.3%	9.0%	10.2%	9.4%	10.7%	9.7%
Other non-Hispanic	4.2%	3.9%	3.9%	4.5%	4.8%	5.9%	4.1%	4.5%
Hispanic	8.8%	7.0%	7.9%	9.5%	10.8%	12.2%	15.3%	9.5%
Foreign-born	6.2%	4.9%	6.8%	7.6%	8.8%	10.1%	11.1%	7.6%
Education								
Less than high school	12.0%	10.9%	10.5%	8.9%	7.4%	8.4%	8.1%	9.4%
High school degree	36.9%	36.8%	35.8%	34.0%	32.0%	28.4%	28.0%	33.7%
Some college	33.8%	34.3%	36.1%	35.7%	36.5%	37.8%	35.7%	35.8%
Bachelor's degree or more	17.3%	17.9%	17.6%	21.5%	24.1%	25.5%	28.1%	21.0%
Current marital status								
Remarried	42.7%	42.1%	30.9%	30.3%	24.9%	18.5%	14.1%	30.0%
Divorced	57.3%	57.9%	69.1%	69.7%	75.1%	81.5%	85.9%	70.0%
Number of children (mean)								
	1.40	1.53	1.60	1.59	1.67	1.71	1.78	1.61
(SD)	(0.72)	(0.75)	(0.82)	(0.81)	(0.86)	(0.84)	(0.88)	(0.82)
Gender of child(ren)								
Mixed	20.3%	25.6%	27.9%	28.5%	31.6%	32.0%	38.0%	28.7%
All female	37.2%	35.3%	34.6%	34.1%	32.6%	32.6%	27.9%	33.9%
All male	42.5%	39.1%	37.5%	37.3%	35.7%	35.4%	34.2%	37.4%
Shared custody awarded by court or judge								
	12.5%	16.4%	19.0%	23.7%	26.0%	29.1%	33.6%	22.1%
Observations	1,671	2,519	4,407	3,450	3,752	2,194	764	18,757

Notes: Data from Current Population Survey, Child Support Supplement. Survey years 1994, 1996, 1998, 2004, 2006, 2008, 2010, 2014. All figures are unweighted. M = mean; SD = standard deviation

Table 1 also divides the sample into divorce-year groups, from divorces that occurred before 1985 followed by 5-year groups for 1985–1989, 1990–1994, 1995–1999, 2000–2004, 2005–2009, and 2010–2014. Evaluating how the individual characteristics differ across divorce years, we find that the gender composition remains similar, age at divorce gets older, racial/ethnic background becomes somewhat less white non-Hispanic and more Hispanic, respondents are more likely to be foreign-born, educational

attainment gets higher, current marital status is more likely to be divorced rather than remarried, the mean number of children rises, and the gender composition is more likely to be mixed. For some of our analyses we distinguish ‘early’ divorces, which we define as 1989 or before, from ‘late’ divorces, which we define as 2005 or later.

3.3 Measures

Our main outcome of interest is the custodial parent’s response to the question, “Did a court or judge ever give you and [the other parent] joint [shared] physical custody?” Our main focus is the time trend: Individuals provide the year of their most recent divorce or separation, and we use this to define divorce-year groups as well as to calculate age at divorce. In our multivariate analyses predicting physical custody we include variables taken from the previous literature, including gender, age at divorce, current education, race/ethnicity, nativity, the number and gender of children, and current marital status. Unfortunately, union and fertility histories as well as income and children’s age at the time of divorce are not available in the CPS. We include (but do not show) indicator variables for each state to control for state-specific differences. No information is available on the other parent, so we are not able to include some variables considered in the prior research based on couples (e.g., total couple income, the mother’s income compared to the father’s, or whether either parent had legal representation at the time of divorce).

3.4 Analysis

We use multivariate non-linear probability (logit) models to explore our questions of interest. We estimate logistic regressions to assess factors related to shared custody, focusing on the time trend. We use a sequential modeling strategy, with Model 1 including only indicator variables for states and the divorce-year group variables. This enables us to assess whether shared custody is becoming more likely over time. In Model 2 we also include a range of variables about individuals and families to see if the likelihood of shared custody still increases over time once demographic characteristics are controlled.

As noted above, some characteristics change over time among divorced custodial parents, and the reason for the increase in shared custody could merely be that characteristics associated with shared custody are increasing in the population of those divorcing. To explore this issue, we first estimate non-linear probability (logit) models on shared custody in early-divorce-year groups and late-divorce-year groups separately,

considering whether the marginal effects on all control variables differ between the periods. We then conduct a decomposition analysis, evaluating whether the changes observed over time are due to changing characteristics of the population across the two time periods (known as ‘endowments’) or to the changing relationship between the characteristics included and the likelihood of shared custody (known as ‘differentials’ or ‘coefficients’). Since we are using a binary outcome variable, we use a variation of the Blinder–Oaxaca decomposition model for binary outcomes.

Finally, our last research question compares the level of shared custody in the United States with that in Wisconsin. We again use a sequential modeling strategy and non-linear probability models. Our first model is simple, containing only an indicator variable for Wisconsin, which shows whether shared custody is overall more likely in Wisconsin than elsewhere. We then add the divorce-year groups and then also add demographic characteristics. Our interest is in whether these additions change the coefficient on the Wisconsin indicator variable. If they do, this implies that the differences between Wisconsin and elsewhere are related to the characteristics of those divorcing.

3.5 Robustness checks

We conduct four robustness checks. First, because we may be assigning the wrong divorce year to those who have been divorced more than once, we examine results after excluding those with multiple divorces ($n = 17,413$). Second, the Census Bureau uses an imputation technique to assign values to those with missing data; we check the robustness of our results by limiting the sample to those who have unimputed data for divorce year and joint custody ($n = 11,920$). Third, because there may be some divorcing couples with shared custody in which both parents claim custodial status (and are thus counted twice), we check the robustness of our results to excluding fathers ($n = 14,724$). Fourth, given the known concerns about decomposition with a binary outcome (Fairlie 2005), we check the robustness of our choice of non-linear decomposition by also conducting a linear Blinder–Oaxaca decomposition.

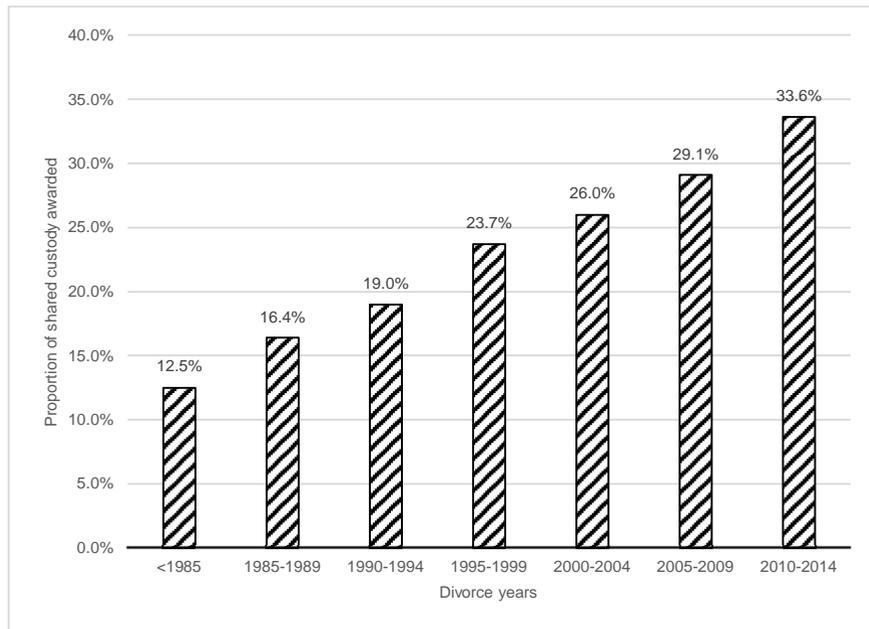
4. Results

We first evaluated the national time trend in shared physical custody as the percentage of divorce cases occurring before 1985 and over the subsequent three decades. Figure 1 shows that the proportion of US divorces where shared physical custody was awarded increased steadily over time, from 13% of divorces before 1985, to 16% for divorces in 1985–1990, 19% of divorces 1990–1994, 24% of divorces in 1995–1999, 26% of

divorces in 2000–2004, 29% of divorces in 2005–2009, and 34% of divorces in 2010–2014. As such, the trend appears to be a steady increase that is approximately linear.

Second, we examined the individual characteristics that predict shared physical custody. As shown in Table 2, Model 1 shows that for the full sample the likelihood of shared physical custody increases significantly and steadily across divorce year groups, even when state differences are controlled for. The probability of shared custody increases by about 3 percentage points for each subsequent divorce-year group: Divorces that occurred in 1985–1989 were 3.9 percentage points more likely to have shared physical custody than divorces that occurred before 1985. The comparable figure rises steadily across years such that divorces in 2010–2014 were 20.2 percentage points more likely to be awarded shared custody than those before 1985. Therefore, holding state-specific differences constant, we observe the same time trend as in Figure 1.

Figure 1: Shared custody awards: National trend by divorce cohort



Source: Authors' calculations from the Current Population Survey – Child Support Supplement, various years

Table 2: Predicting shared custody: Divorce year trends and demographics

	Model 1			Model 2		
	Marg Eff	Std Err	P-value	Marg Eff	Std Err	P-value
Divorce year groups (compared to before 1985)						
1985–1989	0.039	(0.01)	0.000	0.036	(0.01)	0.002
1990–1994	0.063	(0.01)	0.000	0.062	(0.01)	0.000
1995–1999	0.108	(0.01)	0.000	0.102	(0.01)	0.000
2000–2004	0.129	(0.01)	0.000	0.122	(0.01)	0.000
2005–2009	0.157	(0.01)	0.000	0.150	(0.01)	0.000
2010–2014	0.202	(0.02)	0.000	0.192	(0.02)	0.000
Female				-0.105	(0.01)	0.000
Age at divorce (compared to less than 30)						
30–39				0.021	(0.01)	0.002
Above 40				0.022	(0.01)	0.013
Education (compared to less than high school)						
High school degree				0.061	(0.01)	0.000
Some college				0.082	(0.01)	0.000
Bachelor's degree or more				0.143	(0.01)	0.000
Race/ethnicity (compared to white non-Hispanic)						
Black non-Hispanic				-0.098	(0.01)	0.000
Other non-Hispanic				-0.044	(0.02)	0.004
Hispanic				-0.039	(0.01)	0.001
Foreign-born				-0.038	(0.01)	0.005
Number of children				-0.004	(0.00)	0.345
Gender of child(ren) (compared to mixed)						
All female				-0.008	(0.01)	0.358
All male				-0.006	(0.01)	0.476
Current marital status (compared to remarried)						
Divorced				-0.027	(0.01)	0.000
Observations	18,757			18,757		

Notes: The table reports marginal effect estimates from logit regressions of a dummy variable of shared custody on divorce year groups and sample demographics. All regressions control for individual state dummies. The sample consists of custodial parents from the Current Population Survey – Child Support Supplement, survey years 1994, 1996, 1998, 2004, 2006, 2008, 2010, 2014. Robust standard errors in parentheses.

A number of individual characteristics were shown to be associated with a higher or lower likelihood of shared custody in the full model for the full sample, as shown in Model 2. Women were less likely to report shared physical custody than men. Those who were older at the time of divorce were more likely to report shared custody. Educational attainment was strongly linked with a higher likelihood of shared custody: Compared to those with less than high school education, parents with each higher level of education were substantially more likely to have shared custody – those with a bachelor's degree were 14.3 percentage points more likely to report a shared physical custody arrangement than those with less than high school education. Race/ethnicity was also linked to the

likelihood of shared custody. Compared to white parents, other non-Hispanic groups were much less likely to report a shared custody agreement: 9.8 percentage points lower for those who are black non-Hispanic, 4.4 percentage points lower for those who are other non-Hispanic, and 3.9 percentage points lower for those who are Hispanic. Also, those who were foreign-born were 3.6 percentage points less likely to report shared custody than those who were native-born. There appears to be no difference by the total number of children or based on the gender composition of the child(ren), whether all girls or all boys (versus mixed gender). Those whose marital status at the time of the survey was divorced were 2.7 percentage points less likely to report shared custody than those who were currently remarried. Taken together, our analysis suggests that shared custody is typically more common among white, socioeconomically advantaged parents.

When we evaluated those whose divorces occurred in 1989 and before ('early') and 2005 or later ('late'), shown in Table 3, we found generally similar patterns to the full sample, although not all estimates were statistically significant at conventional levels. For both early and late divorces, women were consistently less likely to report shared custody, and the gender difference was even larger in the more recent cohort (the results of a test of the difference in coefficients is shown in the last column). Among late divorces, older parents were more likely to report shared custody. Education was linked to a higher likelihood of shared custody in both periods, especially having a bachelor's degree or higher, and education became a more important predictor in the later period. Black non-Hispanic respondents were significantly less likely to report shared custody than non-Hispanic whites for both early and late divorces, and this negative association was larger for the later divorce groups. Other non-Hispanic respondents and Hispanic respondents were less likely to report shared custody, but only for later divorces; the negative association was larger for the latter group. There was no difference in the likelihood of shared custody between foreign-born and native-born respondents in either period. As with the full sample, there was no difference by total number of children or child gender composition for either time period. During the early period, respondents who were divorced at the time of the survey were less likely to report shared custody than those who had remarried; there was no difference in the later period. Overall, comparing estimates for the early versus late period of divorce years, we found that several individual characteristics became more important over time; in particular, shared custody became more strongly tied to older age, socioeconomic advantage (education), and non-Hispanic white racial background.

Table 3: Predicting shared custody across early and late divorce cohorts

	1			2			3
	Early Divorce Cohort			Late Divorce Cohort			Test of significance
	Marg Eff	Std Err	P-value	Marg Eff	Std Err	P-value	
Female							
Age at divorce (compared to less than 30)	-0.085	(0.01)	0.000	-0.139	(0.02)	0.000	0.000
30–39	0.015	(0.01)	0.186	0.030	(0.02)	0.156	0.053
Above 40	-0.009	(0.02)	0.678	0.062	(0.02)	0.007	0.203
Education (compared to less than high school)							
High school degree	0.032	(0.02)	0.071	0.078	(0.03)	0.007	0.001
Some college	0.035	(0.02)	0.050	0.145	(0.03)	0.000	0.000
Bachelor's degree or more	0.082	(0.02)	0.000	0.200	(0.03)	0.000	0.000
Race/ethnicity (compared to white non-Hispanic)							
Black non-Hispanic	-0.042	(0.02)	0.021	-0.184	(0.03)	0.000	0.000
Other non-Hispanic	-0.002	(0.03)	0.937	-0.091	(0.04)	0.017	0.099
Hispanic	0.000	(0.02)	0.994	-0.084	(0.03)	0.005	0.062
Foreign born	-0.007	(0.03)	0.791	-0.054	(0.03)	0.118	0.207
Number of children	-0.010	(0.01)	0.283	-0.008	(0.01)	0.527	0.221
Gender of child(ren) (compared to mixed)							
All female	-0.014	(0.02)	0.421	-0.029	(0.02)	0.221	0.154
All male	-0.018	(0.02)	0.310	-0.025	(0.02)	0.296	0.145
Current marital status (compared to remarried)							
Divorced	-0.034	(0.01)	0.004	-0.021	(0.02)	0.345	0.013
Observations	4,190			2,958			

Notes: The table reports marginal effect estimates from a logit regression of a dummy variable of shared custody on sample demographics and individual state dummies. The first set of columns show the regression on the sample of custodial parents who were divorced 'early'; i.e., divorced pre-1994. The second set of columns show the regression on the sample of custodial parents who were divorced 'late'; i.e., divorced between 2010 and 2014. The last column provides estimates of the test of the difference of estimates between the early and the late samples.

Third, we used a non-linear Oaxaca Blinder decomposition to evaluate whether the rise in shared custody could be primarily attributed to changes in the composition of the population over time versus changes in how individual characteristics were associated with shared custody. Here, we again considered the two periods of 'early' divorces (1989 and before) and 'late' divorces (2005 or later) within the 30-year period that we analyzed. As shown in Table 4, we found that the shift in shared custody across the two periods observed did not appear to be due to changes in population composition ('endowments') but rather to the associations between demographic characteristics and the likelihood of shared custody ('differentials'). Of the 15.4 percentage-point difference between time periods in the level of shared custody (14.9% for the early divorce cohort versus 30.3% for the late divorce cohort), fully 11.5 percentage points (or 75% of the difference) was accounted for by the changing differentials ($p < .01$); by contrast, the estimate for endowments was very small ($-.002$). In other words, the major difference across the two

periods leading to a higher prevalence of shared custody was not the population composition itself but the way in which characteristics within the population predicted shared custody. This result seems to be driven by positive estimates for ‘some college education’ and ‘white non-Hispanic’ and to some extent the estimate for ‘age above 40’; none of the other estimated coefficients showed clear evidence of association with shared custody.

Table 4: Non-linear Blinder-Oaxaca decomposition across early and late divorce cohorts

	Coefficients	Robust		95% Conf. Interval	
		Std. Err.	P-value		
Late divorce cohort	0.303	0.008	0.000	0.286	0.319
Early divorce cohort	0.149	0.005	0.000	0.138	0.159
<i>Difference</i>	0.154	0.010	0.000	0.134	0.174
Endowments	-0.002	0.008	0.795	-0.019	0.014
Differentials	0.115	0.014	0.000	0.088	0.142
Interaction	0.041	0.013	0.002	0.015	0.067
Observations	7,148				

Notes: The table shows estimates from a non-linear Blinder-Oaxaca decomposition analysis, comparing divorces in an early cohort (1989 or before) to divorces in a late cohort (2005 or later).

Our fourth research question focused on understanding the extent to which the overall US trend follows the trend observed for Wisconsin, which has been the subject of much prior research. These data do show a higher level of shared custody in Wisconsin than the remainder of the US states, 33% compared to 22%. To understand whether the higher percentage in Wisconsin can be ‘accounted for’ by individual characteristics, we estimated non-linear probability regression models predicting shared custody that included a single dummy variable for Wisconsin. In Table 5, Model 1 shows that over the whole time period, divorces in Wisconsin were 9.4 percentage points more likely to be awarded shared custody compared to other states. When we included the variables representing divorce-year groups in Model 2, the Wisconsin coefficient declined modestly (to 8.5 percentage points). Model 3 added the individual characteristics we were able to measure in our dataset, and we found that the Wisconsin coefficient declined modestly (to 7.5 percentage points). Thus, the difference between Wisconsin and the national level or trend (for all states except Wisconsin) could not be explained by the characteristics of those who got divorced in Wisconsin. In other words, while gender, age, race, being foreign-born, education, and current marital status are all characteristics that significantly predicted a higher or lower likelihood of being awarded shared custody, holding all of these characteristics constant does not eliminate the significant difference between Wisconsin and all other states in this outcome.

Table 5: Predicting shared custody: Wisconsin, divorce year trends and demographics

	Model 1			Model 2			Model 3		
	Marg Eff	Std Err	P-value	Marg Eff	Std Err	P-value	Marg Eff	Std Err	P-value
Wisconsin	0.094	(0.02)	0.000	0.085	(0.02)	0.000	0.075	(0.02)	0.000
Divorce year groups (compared to before 1985)									
1985–1989				0.040	(0.01)	0.000	0.036	(0.01)	0.001
1990–1994				0.065	(0.01)	0.000	0.063	(0.01)	0.000
1995–1999				0.112	(0.01)	0.000	0.102	(0.01)	0.000
2000–2004				0.135	(0.01)	0.000	0.125	(0.01)	0.000
2005–2009				0.165	(0.01)	0.000	0.153	(0.01)	0.000
2010–2014				0.211	(0.02)	0.000	0.196	(0.02)	0.000
Female							–0.108	(0.01)	0.000
Age at divorce (compared to less than 30)									
30–39							0.022	(0.01)	0.001
Above 40							0.023	(0.01)	0.010
Education (compared to less than high school)									
High school degree							0.062	(0.01)	0.000
Some college							0.089	(0.01)	0.000
Bachelor's degree or more							0.151	(0.01)	0.000
Race/ethnicity (compared to white non-Hispanic)									
Black non-Hispanic							–0.106	(0.01)	0.000
Other non-Hispanic							–0.030	(0.01)	0.044
Hispanic							–0.027	(0.01)	0.021
Foreign-born							–0.038	(0.01)	0.005
Number of children							–0.003	(0.00)	0.467
Gender of child(ren) (compared to mixed)									
All female							–0.008	(0.01)	0.398
All male							–0.006	(0.01)	0.485
Current marital status (compared to remarried)									
Divorced							–0.027	(0.01)	0.000
Observations		18,757			18,757			18,757	

Notes: The table reports marginal effect estimates from logit regressions of a dummy variable of shared custody on the dummy of the custodial parent being from Wisconsin, divorce year groups, and on sample demographics. The sample consists of custodial parents from the Current Population Survey – Child Support Supplement, survey years 1994, 1996, 1998, 2004, 2006, 2008, 2010, 2014. Robust standard errors in parentheses.

We conducted four robustness checks, with results not shown (available from the authors). Three robustness checks limited the analysis sample: first we excluded 1,344 custodial parents who were married more than once; second, we excluded 6,837 custodial parents who had their divorce year or custody imputed; and third, we excluded 4,033

male custodial parents. Limiting our analysis sample in these ways did not change our key results: Shared custody still increased over time and was not explained by changing characteristics of those getting divorced, and Wisconsin still had a higher level of shared custody, all else being equal. Finally, our key results were also robust to whether we used a linear probability model for the decomposition rather than a non-linear logit model.

5. Discussion

Until now, data on the extent of shared physical custody in the United States has been limited to single-state studies, primarily on Wisconsin, and calculations of the trend over time have been limited by the lack of comparable data. Using national data, in this paper we show that the likelihood of shared custody has more than doubled nationally, increasing from 13% of divorces before 1985 to 34% of divorces in 2010–2014. This puts the United States among the countries with the highest rates of shared physical custody after divorce (Steinbach, Augustijn, and Corkadi 2020; Zilincikova 2021). This dramatic increase is remarkable and shows a significant change in the way post-separation families are organized.

The characteristics found to be associated with shared custody generally follow the previous literature from the smaller state-based studies, though our study is focused on custodial parents rather than couples. For example, custodial parents with higher education are more likely to have shared physical custody, similar to the previous findings (e.g., Cancian et al. 2014; Juby, Le Bourdais, and Marcil-Gratton 2005; Zilincikova 2021). This may reflect the relationship between education and income (a variable we do not have): Shared custody requires more income than sole custody because both housing units need to be large enough for substantial child overnights.

Our decomposition results suggest that the changes in the demographic characteristics of those getting divorced do not explain the steady rise in shared custody; rather, the shift was due to the link between certain demographic characteristics and the likelihood of shared custody. This appears to be driven by some college education and being white non-Hispanic, two characteristics that are more strongly linked to shared custody for more recent versus earlier cohorts. While we were not able to evaluate changes in the process and laws regarding custody, we expect that custody norms have also changed over time, with shared custody becoming more acceptable, and in many cases preferred. Perhaps reflecting the change in norms (or perhaps leading to the change in norms), the policy environment has also changed, with a more explicit acknowledgement of shared custody as a potential outcome, and in some cases a preference for shared custody. For example, Wisconsin changed its statute governing custody in 2000 (§ 767.24(4)(b)) to state that “[a] child is entitled to periods of physical

placement [custody] with both parents unless, after a hearing, the court finds that physical placement with a parent would endanger the child's physical, mental or emotional health." The current Wisconsin statute (§767.24(5)) goes even further, stating explicitly that "[t]he court may not prefer one potential custodian over the other on the basis of the sex or race of the custodian." The preference for shared custody in the Wisconsin statute might be a reason for Wisconsin's higher likelihood, but an organization grading states on their legal environment for shared custody does not give Wisconsin's statutes the highest grade, instead giving them a B- (National Parent Organization 2019). Several compilations of custody policy in various states exist (e.g. Custody x Change 2018; Halla 2013; National Parent Organization 2019), but these do not provide a history of changes in the laws governing custody, and it is beyond the scope of this article to attempt to ascertain the policy in place in each state in each year.¹¹ We conclude that the observed substantial increase in the likelihood of shared custody over time is likely related to norms and laws (as well as certain subgroups being more likely to get shared custody), rather than to changes in the characteristics of those getting divorced, but further research would be useful. Moreover, further research examining the reasons behind changes in laws, including the role of fathers' rights groups (see, e.g., Alschech and Saini 2019; or Harris-Short 2010), as well as the impact of changes in the law, would be useful.

We found that more individual characteristics are linked to shared custody for recent divorce year groups, and those with higher education were increasingly likely to have shared custody. This is somewhat in contrast to the findings of Meyer, Cancian, and Cook (2017) who, with different data and analysis, show increases in shared custody in Wisconsin for low-income couples as well as those with more income (they do not have data on education). However, a closer examination of their Figure 3c shows that in Wisconsin there were increases among both low-income and upper-income couples, but the likelihood rose faster for upper-income couples, so the gap increased. Thus, the current results (which highlight the gap) are similar. Shared custody is increasingly common among more advantaged couples, but it is increasing among all types of divorce cases.

The data used in this paper have some limitations. Self-reports of the award of custody may not match the court records, and behavior may not follow the legal arrangement. Comparisons of self-reports with court records in Wisconsin suggests that around 70% of those with an equal shared custody arrangement in the divorce decree have approximately equal actual living arrangements years later (Bartfeld, Chanda, and Berger 2021; Berger et al. 2008). While some early research suggested that shared

¹¹ Halla (2013) has published the year at which shared custody was made explicit in state statutes. However, this measure only reflects the explicitness of policy, not whether there is a preference for shared custody. In addition, Halla reports that two states do not have shared custody statutes, yet some parents in each of these states report having shared custody. Finally, the data contain only custodial parents' current state of residence, not the state in which they were divorced.

arrangements were unstable, with children spending increasingly more time with mothers as the time since divorce increased ('maternal drift'), the most recent research suggests that shared arrangements are as stable (and sometimes more stable) than arrangements in which children live primarily with their mother (Bartfeld, Chanda, and Berger 2021; Berger et al. 2008).

Second, connecting custody arrangements to the characteristics of both parents is not possible with these data. Another limitation is that in these data custody is linked to a custodial parent rather than a child, even though some custodial parents may have different arrangements for each child (especially if they have children with more than one partner). For those who have been divorced more than once, we may not be correctly identifying the year of divorce from the child's noncustodial parent; however, as noted above, we completed a robustness check to remove those who were married more than once. Finally, some variables that may be related to custody were not available, including the policies in place at the time of divorce in a particular state, each parent's income, union, and fertility histories, legal representation by parents at divorce, and children's ages and preferences.

Even with these limitations, this paper has some implications for family policy. First, we believe our finding of the more than doubling of shared custody nationwide means that policymakers need to consider how various government programs should respond in shared-custody situations. For example, in a shared-custody case, which parent(s) should be able to 'count' the child in their SNAP (food stamp) household? Should both, only the one with fewer resources, only the one who applies first, or should a different rule be used? Although these issues have been raised (e.g., Meyer and Carlson 2014), it is not clear that policymakers have carefully and systematically considered such issues. Second, increasing rates of shared custody have implications for the child support program. Is a child support order never appropriate in shared-custody cases, or only in cases where one parent has substantially more resources than the other, or in most shared-custody cases? The issues are difficult; this research showing the frequency of these cases suggests that shared custody is consequential for children's living arrangements and wellbeing. Finally, if shared custody is advantageous to children, a more systematic review of how Wisconsin has achieved higher rates than elsewhere may be of interest to policymakers in other states.

Our findings also have implications for understanding the growing inequality in family experiences by socioeconomic status that has been observed in the United States over the past half century (McLanahan 2004; Lundberg, Pollak, and Stearns 2016). Children with college-educated/higher-income parents are more likely to be raised in stable two-parent families, and these more advantaged parents typically provide greater investments of time and resources to enhance children's development and wellbeing (Kalil and Ryan 2020). As noted earlier, prior research suggests that shared custody is

associated with greater parental investments in children and better child outcomes (Nielsen 2014; Teubert and Pinquart 2010). Therefore, our findings that shared custody has become more tightly linked with socioeconomic advantage (and white race) over time suggest that shared custody (and the greater investment it may bring) may serve as an additional axis of stratification with respect to children's wellbeing and social mobility.

This paper also has implications for research. Depending on a survey's purpose, it may need to include questions not just about who is in the household but about how often they are there. Because shared custody is now more common, previous research on the impact of shared custody on children may need to be re-evaluated in locations where it has become more normative. Studies of the time patterns, whether parents follow parenting plans, and how parents manage the frequent transitions between locations would all be useful.

This paper has provided new information about the extent to which shared physical custody is on the rise in the United States nationally and the factors associated with shared custody. With high levels of parental separation and divorce, it is important to better understand the patterns and determinants of shared custody, which could be an important mechanism for facilitating involvement by both biological parents in children's lives over the long term.

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