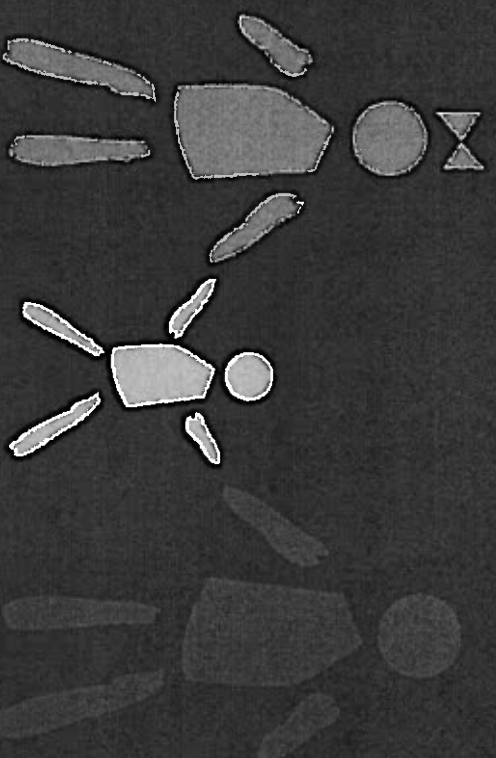


Current State of Child Custody Practices in MI



By: Keith Ledbetter



We Are Facing a Societal Crisis of Fatherless Families

✧ According to the National Fatherhood Initiative, 40 percent of children today can expect to live in a household without their biological father.

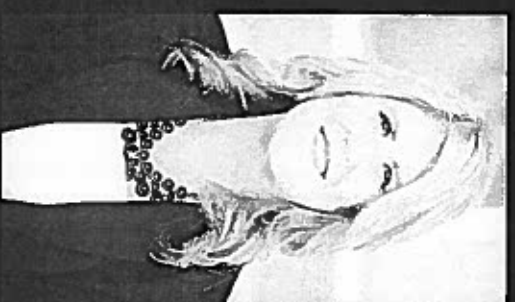
✧ We are experiencing a seismic generational shift, with over 610,000 Michigan children who live in a household with no male presence at all, according to the latest census figures.



What's the impact of such societal experimentation?

Kids win when separated parents have equal rights and responsibilities

Dianna Thompson, guest columnist
The Gazette Sept. 19, 2016



- ✓ Forty percent of the children living in fatherless homes haven't seen their father in over a year
- ✓ 26 percent of absent fathers live in different states than their children
- ✓ According to the U.S. Census Bureau, 82.2 percent of custodial parents are mothers and 17.8 percent are fathers

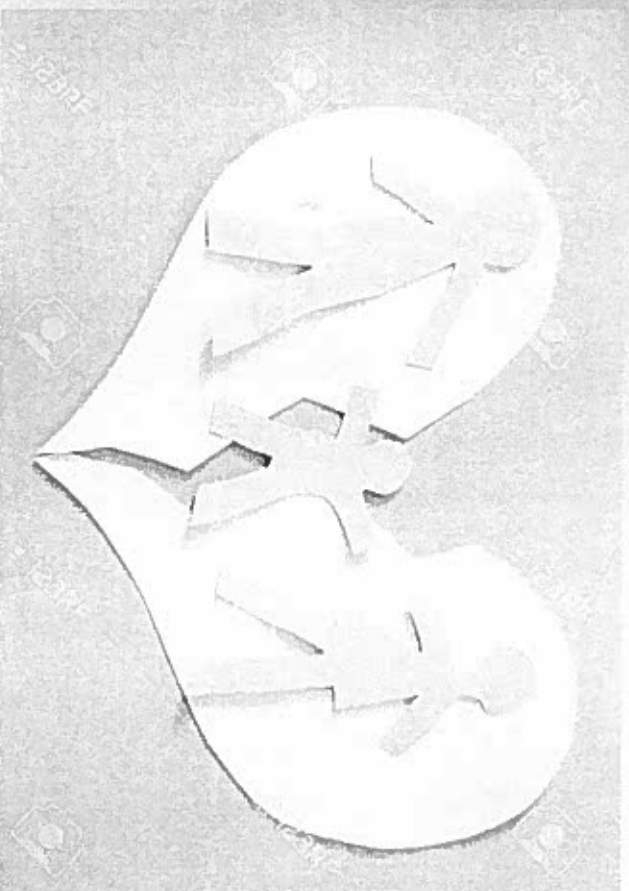
Common Myth:

Stripping physical custody of divorcing parents is a relic of a bygone era.

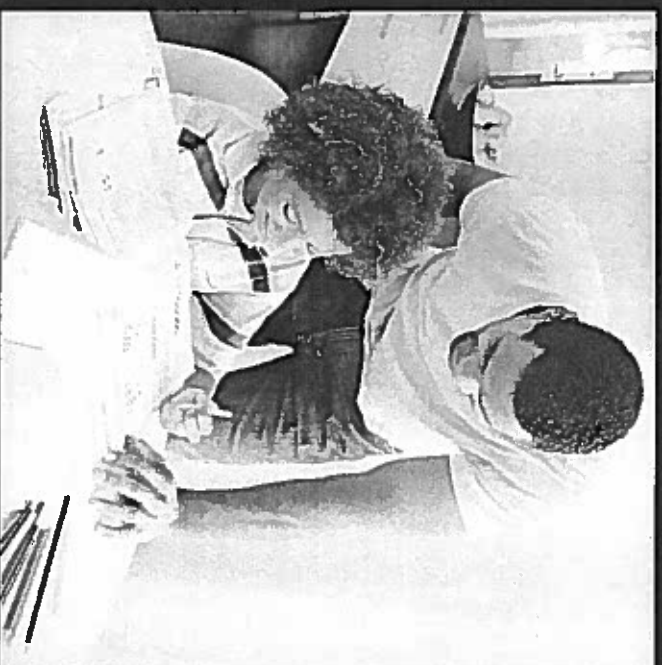
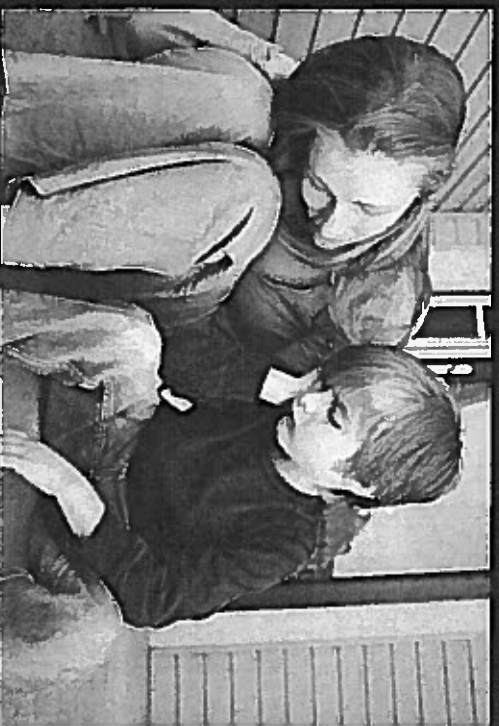


Reality:

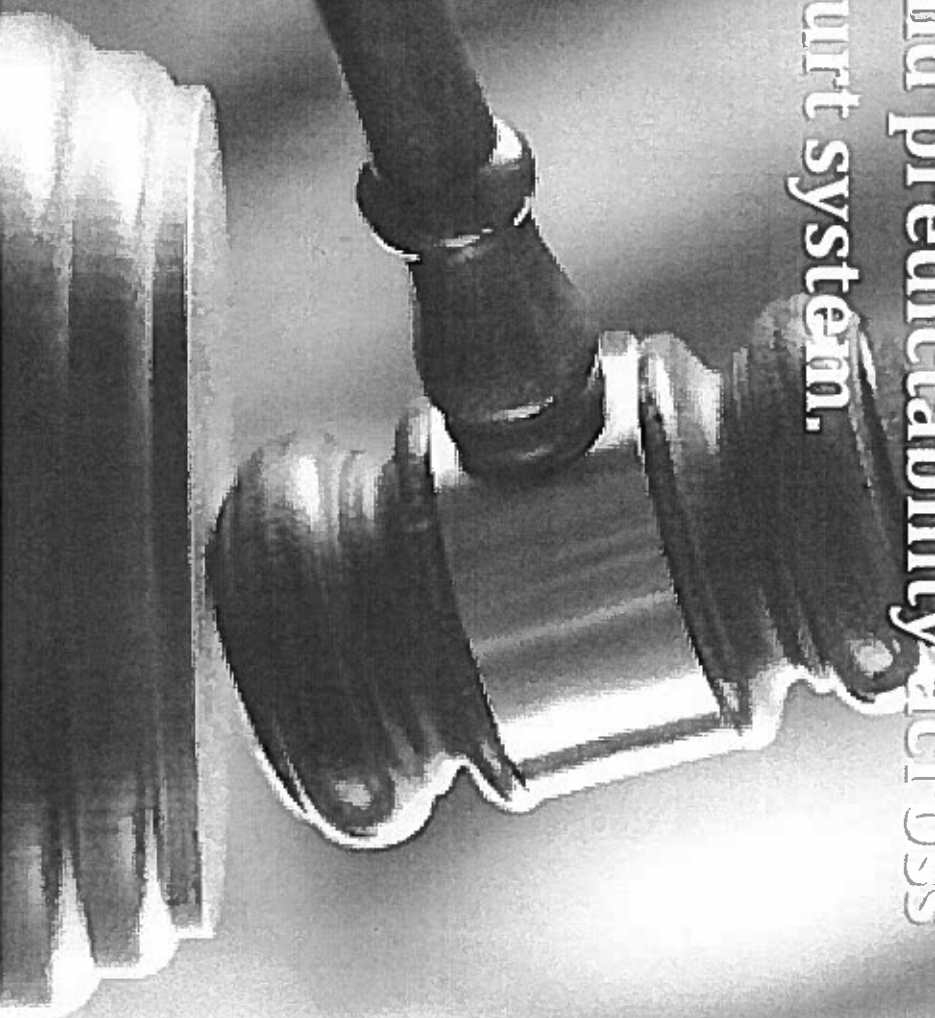
MI Family Courts strip physical custody from a parent in over half of all divorce cases.



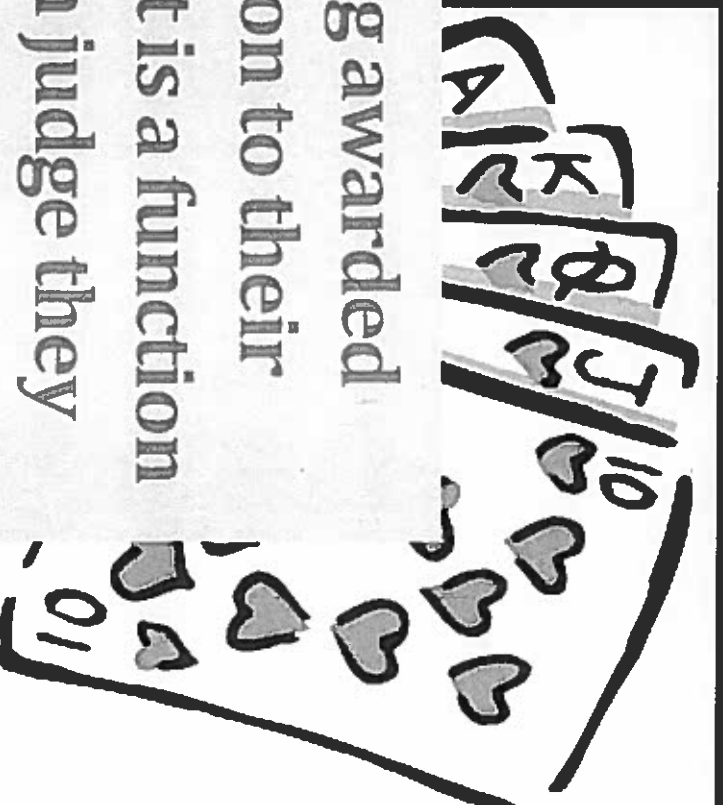
MI Courts are routinely stripping good parents of physical custody of their children because they weren't deemed the "best" parent, without any finding of insufficient parenting.



Justice isn't uniform. There is a significant problem in some courtrooms, and there is a lack of consistency and predictability across the Family Court system.

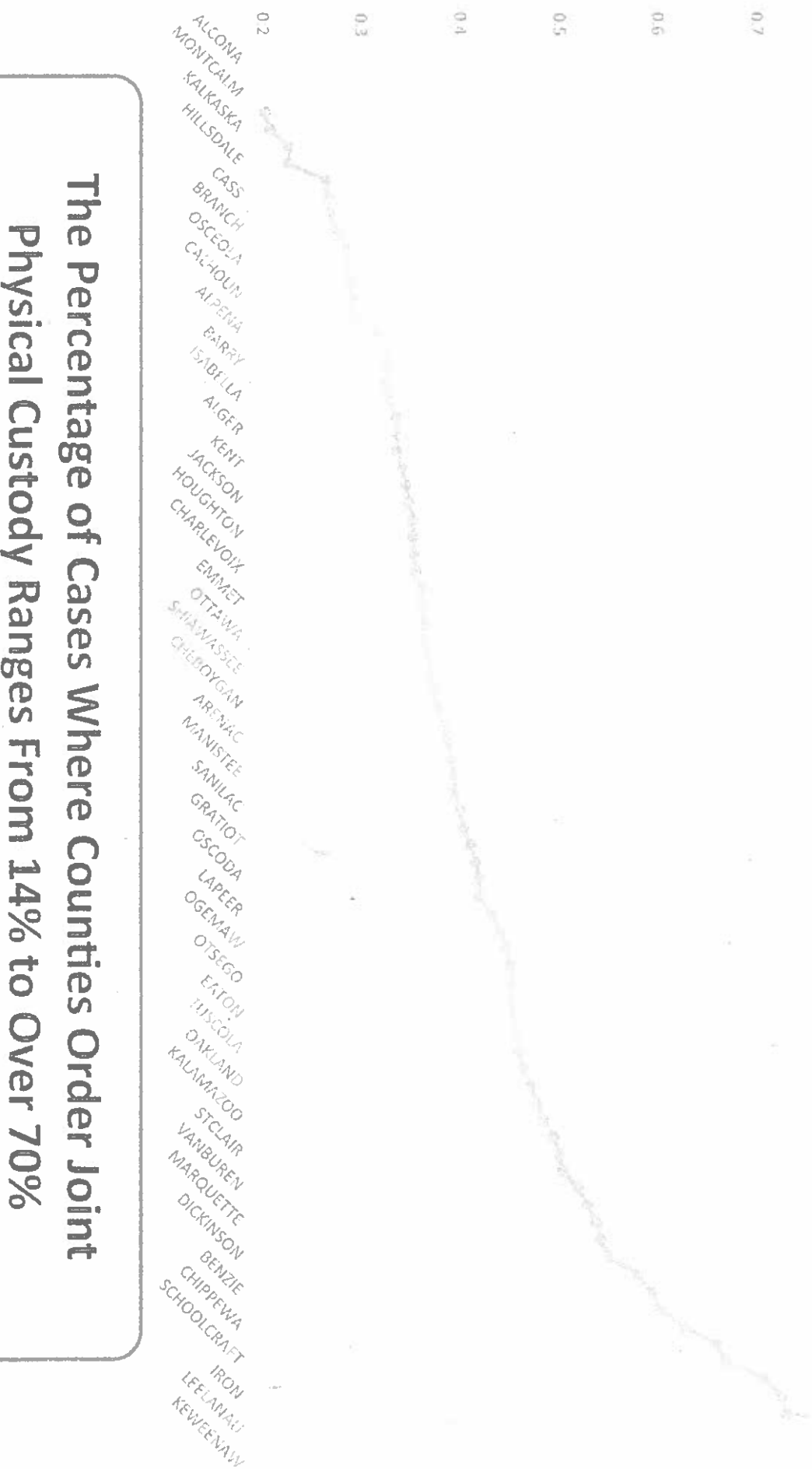


A parent's likelihood of being awarded joint custody has little relation to their parenting skills, but rather it is a function of where they live and which judge they are assigned.



The SAME FACT PATTERN can yield wildly different outcomes depending on which judicial district and judge hears the case. This undermines public confidence that judicial decision making is consistent and even handed.

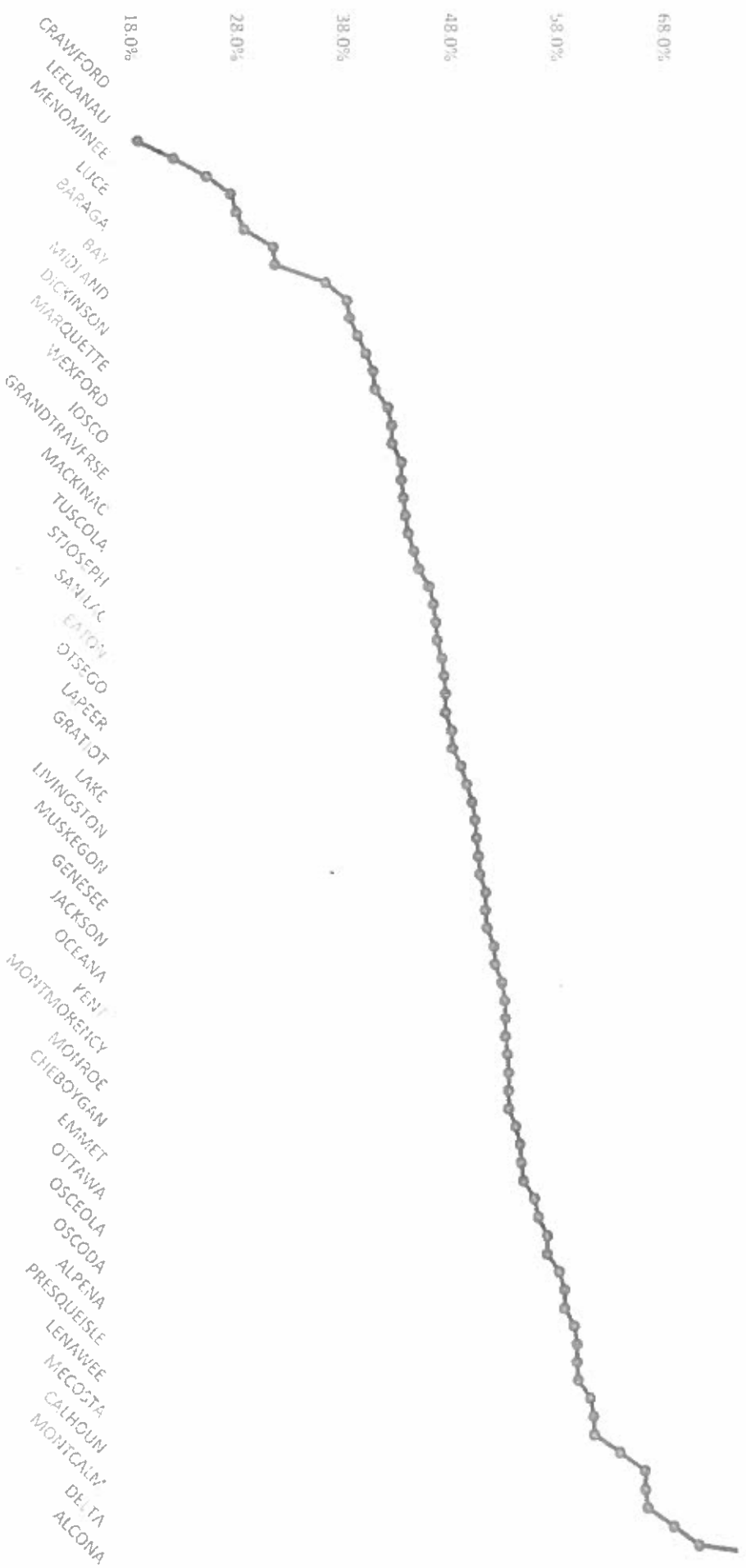
Michigan - % of Joint Physical Custody by County 2013



The Percentage of Cases Where Counties Order Joint Physical Custody Ranges From 14% to Over 70%

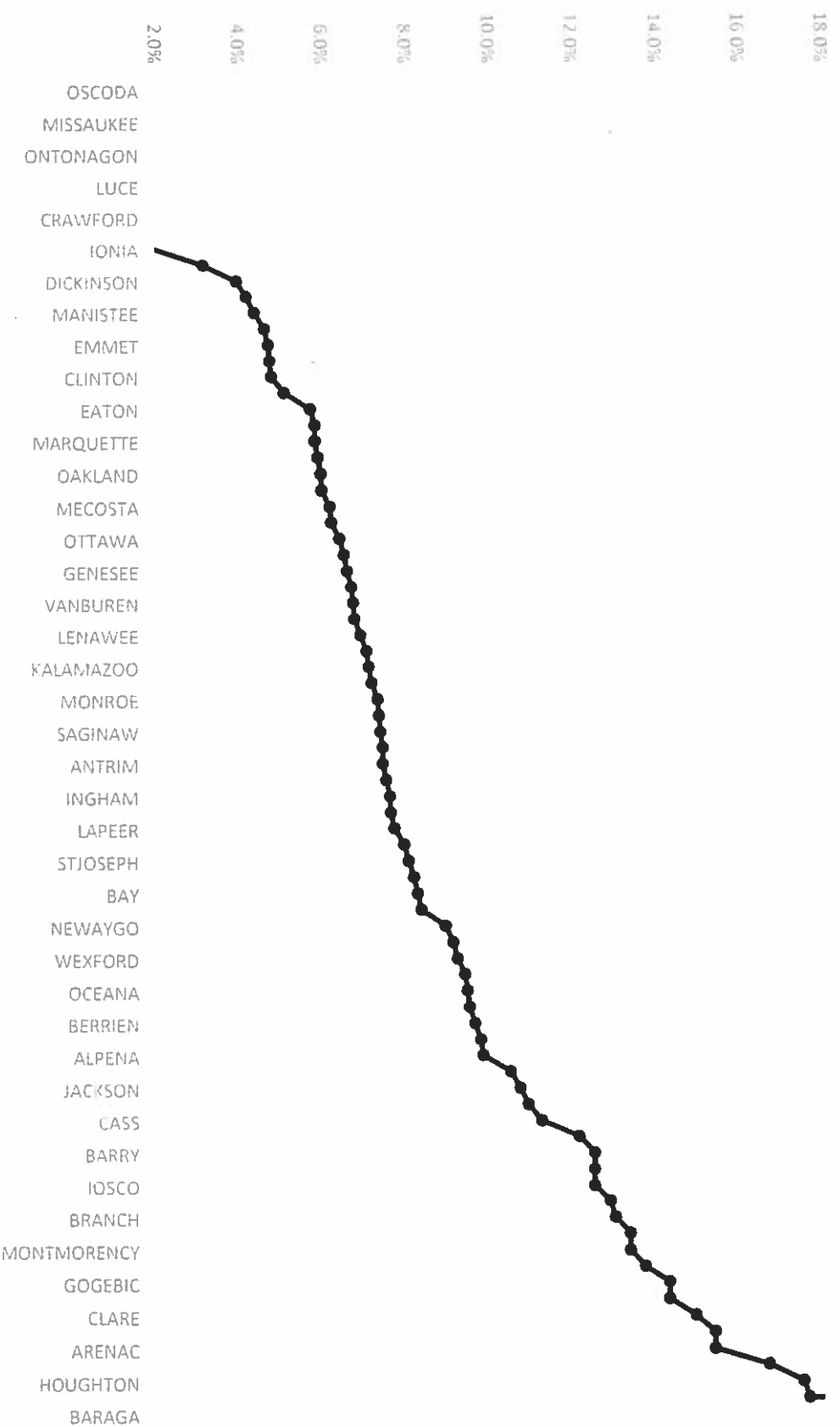
Source: MI Dept. of Health and Human Services, 2013

Michigan - % of Maternal Physical Custody by County 2013



Maternal Physical Custody Orders by County
Ranged from 18% to 69% of all Cases

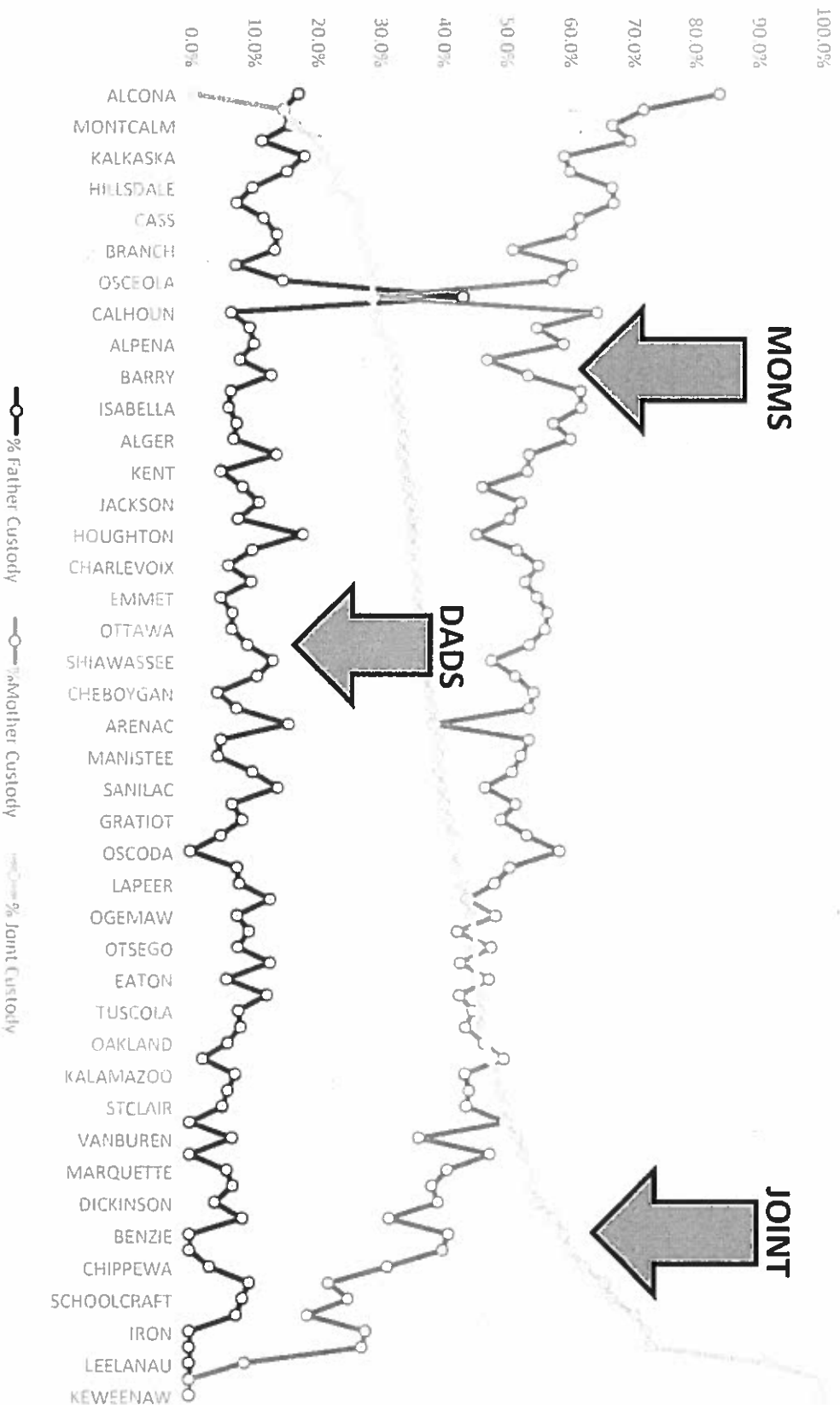
Michigan - % of Paternal Physical Custody by County 2013



Paternal Physical Custody Orders by County

Ranged from 3% to 17% of all Cases

Michigan - Custody Orders by County by Parental Gender



Counties Ordering More Joint Custody Order Less Maternal Custody
 No Correlation With Joint Custody & Paternal Custody

Comparing Similar Size Counties Raises Questions (Examples)

<u>COUNTY</u>	<u>Total</u>	<u>Total</u>	<u>Total</u>	<u>Total</u>	<u>Total</u>	<u>% Father</u>	<u>% Mother</u>	<u>% Joint</u>
	<u>Instances</u>	<u>Instance</u>	<u>Instances</u>	<u>Instances</u>				
	<u>Children</u>	<u>Children</u>	<u>Children</u>	<u>Children</u>				
	<u>Father</u>	<u>Mother</u>	<u>Joint</u>	<u>Other</u>				
	<u>Custody</u>	<u>Custody</u>	<u>Custody</u>	<u>Custody</u>	<u>Total</u>	<u>Custody</u>	<u>Custody</u>	<u>Custody</u>
CALHOUN	15	129	147	5	296	5.1%	43.6%	49.7%
STCLAIR	15	155	70	2	242	6.2%	64.0%	28.9%
BERRIEN	20	107	73	8	208	9.6%	51.4%	35.1%
BAY	16	61	112	5	194	8.2%	31.4%	57.7%
VANBUREN	10	54	77	8	149	6.7%	36.2%	51.7%
MONTCALM	22	95	23	3	143	15.4%	66.4%	16.1%

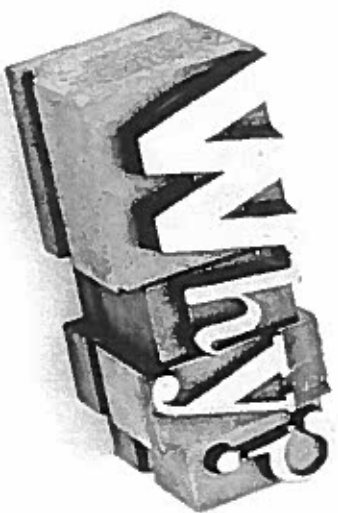
Montcalm County -- Strong Bias Against Shared Custody

High Stakes Adversarial Winner-Take-All System

Montcalm County Ranked 5th Highest in Awards of Paternal Custody.

Montcalm County Ranked 5th Highest in Awards of Maternal Custody.

Montcalm County Ranked 3rd Lowest in Awards of Joint Custody.



Why such extreme variation?

- Michigan legislators have not set clear, objective child custody standards for over 50 years.
- Individual judges often use personal preferences to determine courtroom practices.
- Family Courts utilize a myriad of conflicting Appellate Court rulings to justify inconsistent actions from courtroom to courtroom.



Antiquated "Child Custody Act of 1970"

Physical custody of children is largely awarded to the parent who spent the most time with their children during the marriage.

-- "Established Custodial Environment"
Principle



Problems and Impacts of Using the 50 Year Old Established Custodial Environment Principle

The common assumptions are that:

1 The parent who cooked more meals or spent more time with the child is an acceptable proxy for who is the “best” parent.

2 Children are best served by primarily being raised by the ‘best’ parent, while spending alternating weekends with the other.

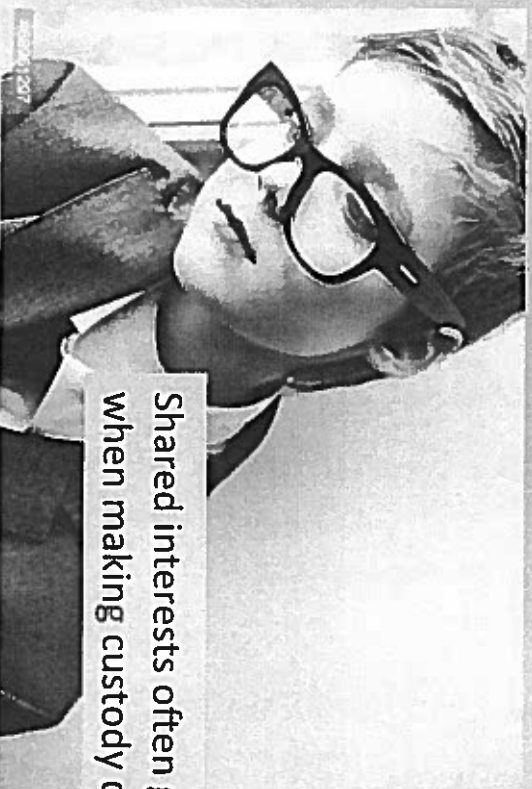
Fails to recognize and fully value the unique and beneficial contributions each parent brings to their child's development.

**Sometimes
I just wish you
were here
so I could tell you
how much
I need you and
how hard every
day has been
without you.**

Stay-at-home/part-time working parents almost always become the custodial parent in contested cases



Courts routinely ignore parent-child relationships, positive influences of kids being raised by working parents, shared hobbies or interests, the need for gender balance, the benefits of shared responsibility, or other critical factors when making custody determinations.



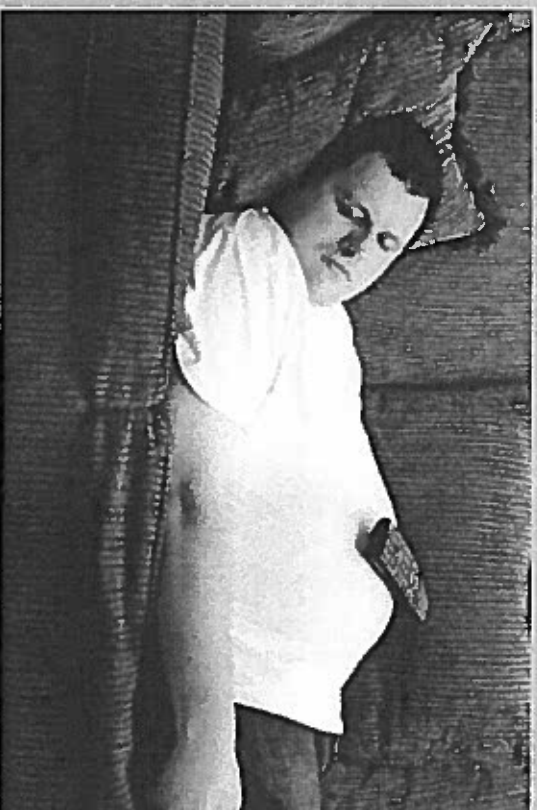
Shared interests often get ignored when making custody determinations.



An Unemployed Parent Is More Likely to Receive Custody of Their Kids

Given the Courts' preference for choosing the parent who stayed home with the kids, a long-term unemployed parent is likely to receive preference over a working parent.

This fails to recognize a single household is being reorganized into two distinct households where both parents are likely working full time.



There's a Family Court bias against parents from families with traditional divisions of labor

Although all household responsibilities are essential, tasks like cooking meals and driving the kids to school take precedence in the "Established Custodial Environment" standard over the parent who was the predominant bread winner or mowed the lawn.



In the newly established households, both parents will be responsible for all the tasks.

Problems and Impacts Using the 50 Year Old Established Custodial Environment Principle

Leads to more poverty, particularly for mothers, as it is difficult to improve one's situation; educationally, economically and socially, when also tasked with most of the child rearing responsibilities.

Imbalance of Parenting Responsibilities



Nearly all the weight of child rearing falls onto one parent...

- Conflicting sporting events
- School functions
- Homework
- Grocery shopping



While the other parent feels left out, unwanted, underutilized, rejected and unneeded, impacting the relationship between them and their children.

"Established Custodial Environment" Foundation of Current System

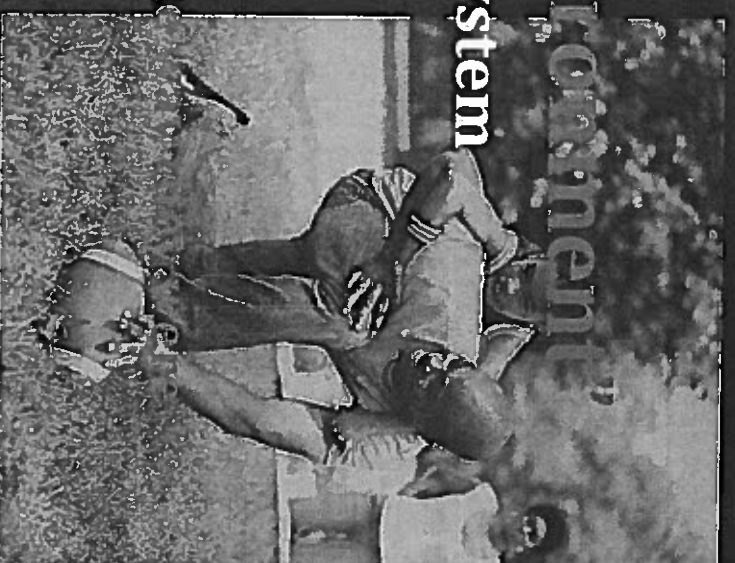
Common Myth:

"Keeps parenting arrangements as close to the status quo as possible before the divorce."

Reality:

Joint physical custody most closely approximates continuance of an intact nuclear family for minor children.

Sole custody isolates children from one parent for all but four nights a month and every other holiday in a majority of cases. Sole physical custody magnifies the loss of a key contributor to the nuclear family for the effected children.

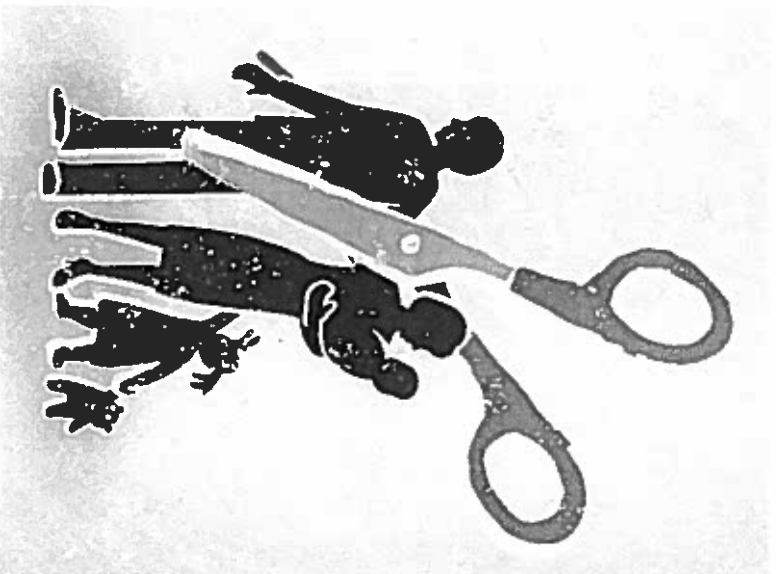


Non Custodial Parents Become Non-Essential Parents

70/30 Split

Common Practice:

One parent is given a secondary parenting role and alternating weekend “visitation/parenting time”.



Non custodial parents routinely go 10 days every two weeks without having an overnight with their children. This creates a striking contrast as to “how things were” in the marriage. But judges who disproportionately award sole custody ignore this reality.

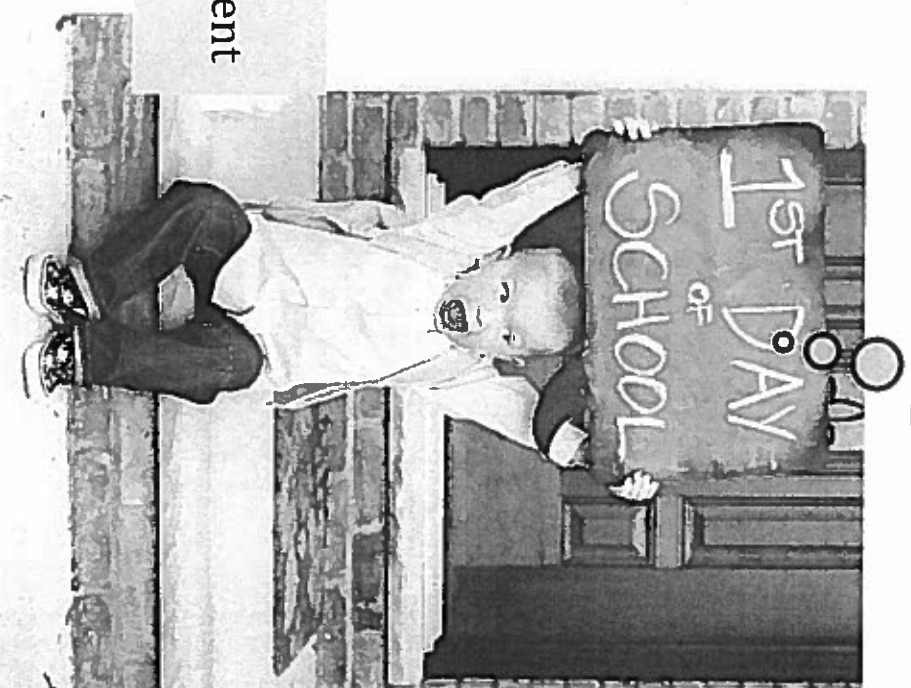
Non Custodial Parents Miss Out On Significant Parts Of Their Children's Lives

Non custodial parents

frequently get an alternating Friday-Sunday calendar, which means no overnights with their kids on school nights... ever.



Some children will never be able to experience having their non custodial parent get them ready for school.



INGHAM COUNTY FRIEND OF THE COURT
FAMILY DIVISION

THIRTIETH JUDICIAL CIRCUIT
303 W. Kalamazoo, P.O.Box 40097
Lansing, MI 48910

HARRY MOXLEY

Deputy Court Administrator

Family Division/FOC

HARRY MOXLEY

Assistant FOC/Operations

ROBERT HOTCHKISS

Assistant FOC/Legal Division



REASONABLE RIGHTS OF PARENTING TIME

Reasonable Rights of parenting time are currently defined as follows:

Alternate Weekends: Parenting time shall occur on alternating weekends from 6:00 p.m. Friday until 6:00 p.m. Sunday evening.

Weekly Parenting Time: Parenting time shall occur one evening per week from 6:00 p.m. until 8:30 p.m. on a day of the week to be determined by the parties. If the parties cannot agree on a day, the parenting time shall occur on Wednesday evening.

Ingham County believes it's perfectly "reasonable" for non custodial parents to get only four overnights a month with their kids and no school nights! And it's common place enough that they've created a document to try to convince everyone else it's "reasonable" too!

ATTORNEYS/REFEREES

Helen Hartford

Vicki Pinckney

Irene Sivavajchalpong

Dean Winnie

WEBSITE:

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PHONE: 517-483-6103

FAX: 517-483-6107

Standard Parenting Time

In Calhoun County, the Family Division of Circuit Court has established a standard for ordered parenting time for non-custodial parents. In most cases, the court has found that exercised standard parenting time provides for an amount of contact between the non-custodial parent and the minor child that will facilitate and nurture the relationship between parent and child.

The standard parenting time provision provides that the non-custodial parent shall have the right to parenting time at all times and places to which the parties may mutually agree, provided, however, that in the event the parties are unable to agree, the following minimum rights shall prevail:

- alternate weekends from 6:00 p.m. on Friday until 6:00 p.m. on Sunday;
 - ~~Wednesdays, unless otherwise agreed by the parties, for up to four hours~~, to commence either at 4:00 p.m. or from after the non-custodial parent's work day ends until 8:00 p.m.; this mid-week visit shall occur only while school is in session or, if continued during school vacation periods, it shall be available to both parties; the mid-week parenting time shall be waived, however, if it interferes with a bona fide vacation plan by either party;
 - alternate spring vacation periods;
 - one-half of the summer vacation period, subject to the other parent's regularly scheduled alternate weekends from 6:00 p.m. on Friday until 6:00 p.m. on Sunday;
 - one-half of the Christmas vacation period;
- alternate holidays, to include the following:

Calhoun County also believes it's a perfectly
"reasonable" standard!

Reasonable Rights of Parenting Time

Reasonable Rights of Parenting Time is defined by the Jackson County Friend of the Court as follows:

*** Special Note:** Your parenting time order should reflect the needs of your child. This parenting schedule may not fit the needs of some infants, toddlers, or children with special needs. If you feel that this schedule is not appropriate for your child, you may wish to seek a modification of your order.

- Every other weekend, from Friday night at 6:00 p.m. until Sunday night at 6:00 p.m.
- Midweek parenting time from immediately after work and/or school until 8:00 p.m., each and every week, except those weeks that are designated to the other parent.
- Every other spring break, with the mother having odd numbered years, and the father having even numbered years. This parenting time shall commence at 6:00 p.m. on the last day of school, and end at 6:00 p.m. on the day prior to the child's commencement of school, following spring vacation.

And Jackson County!

Age:

36 months and up

Schedule

Every Tuesday at 6PM until Wednesday to school/daycare/
or custodial parent, no later than 10AM AND alternate
weekends.

ALTERNATE WEEKEND time is defined as Friday 6PM
until Sunday 6PM

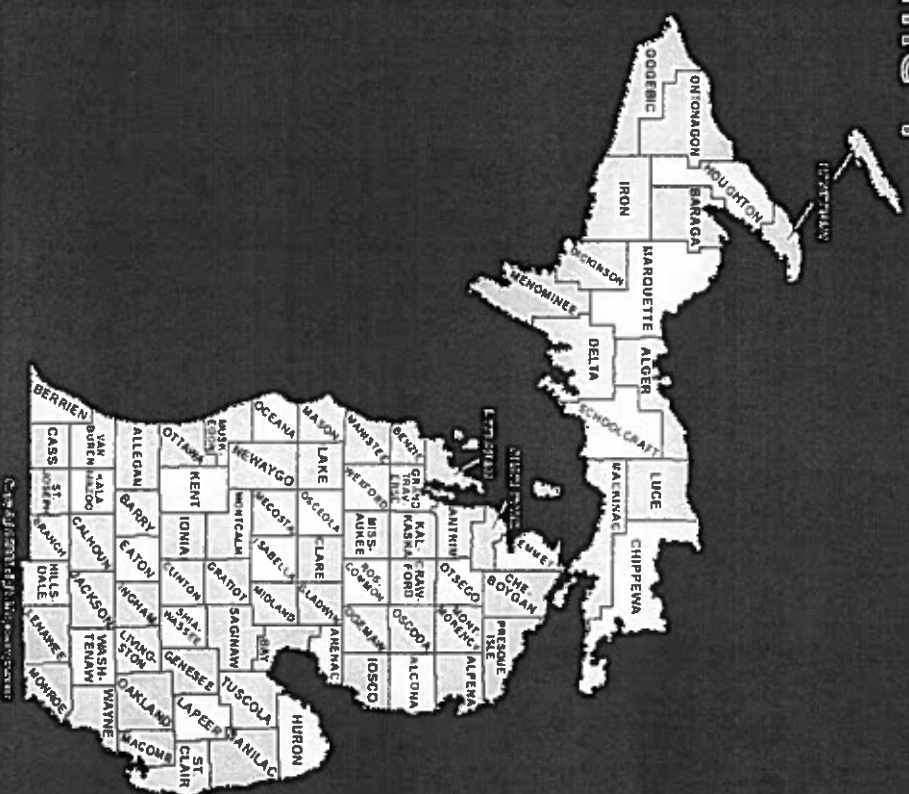
See Pages 3-5 for the appropriate Holiday schedule.

*PARENTAL TIME OFFSET FOR THIS PLAN:

249 overnights for CP/116 overnights for

And Wayne County too!

To check your county, Google your county's name and "reasonable parenting time".



Despite what some will tell you, the statewide data clearly shows that Family Courts still rule for sole custody more frequently than any other form of custody, and that...

four overnights a month and no school nights is not an aberration but the standard

in many counties for non custodial parents.



In Practical Terms, This Means...

A 3 year old child whose parents separate will spend 12 years with one parent and 3 years with the other.

4:1 Ratio

The Result

Hundreds of thousands of Michigan children live within a few miles or a few minutes of their non-primary residential parent, separated by a court order.

The extreme act of limiting a child's access to one of their parents creates a "high stakes" environment which drives conflict and litigation.

Research indicates limiting a child's access to one of their fit and loving parents simply because the parents no longer reside together is unwarranted and harmful to children.

Child Custody Act of 1970

“Winner-Take-All Parental Comparison Contest”

Michigan law does not create an objective standard by which a parent is deemed a suitable parent.

Rather...

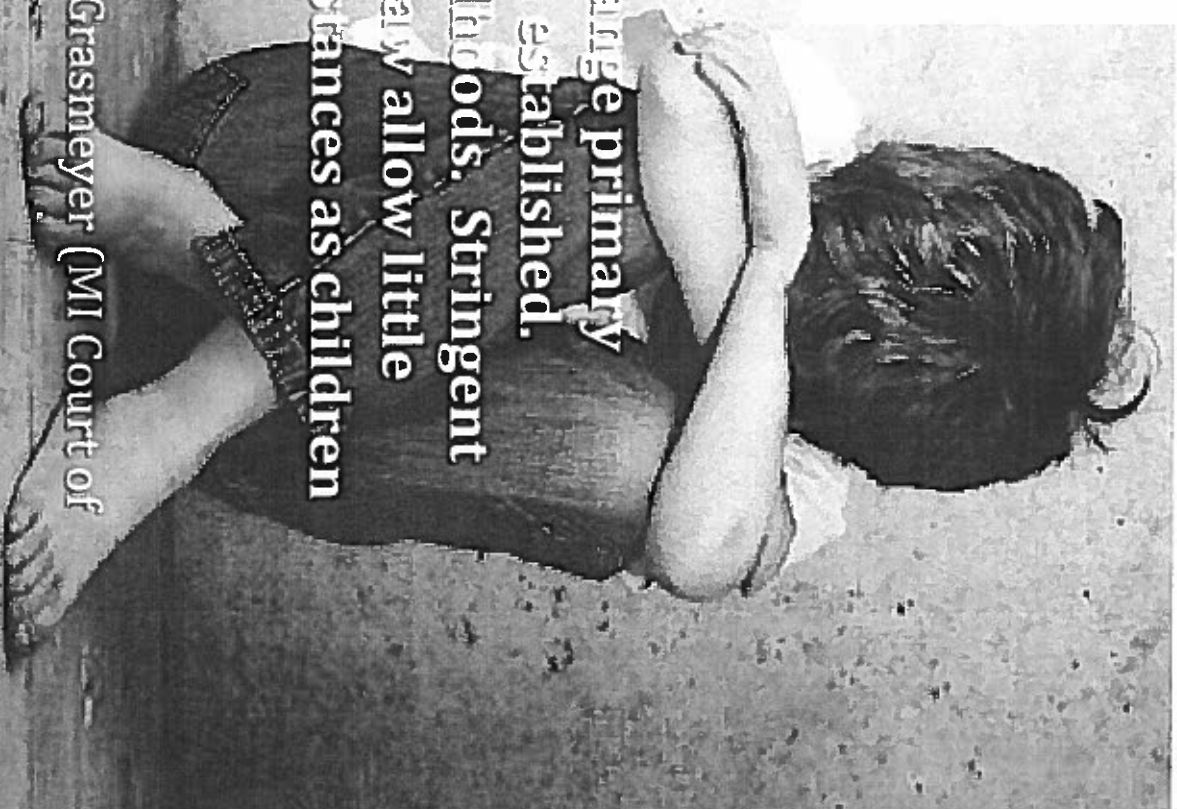
The Established Custodial Environment Standard and the Best Interest Factors are set up as an adversarial competition between two parents to determine which parent is “best”.

No longer taboo, but divorce still damages children

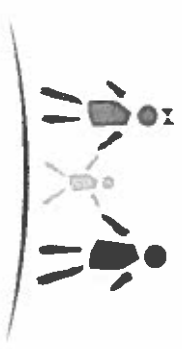
Suffering goes on into adulthood and even old age

There is virtually no ability to change primary physical custody once it has been established. Judicial roadblocks last entire childhoods. Stringent legal hurdles in recognized case law allow little recognition of changes in circumstances as children age, unless changes are extreme.

MI Legal Precedent: *Vodvarka v. Grasmeyer* (MI Court of Appeals, 2003)



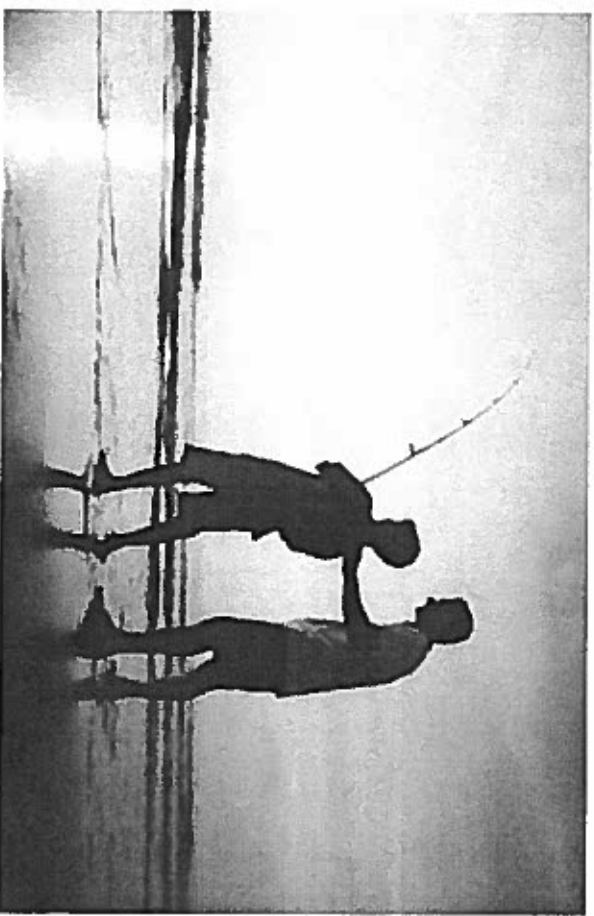
Myth:



A child is best served by being raised by their “best” parent.

New Principle :

A child is best served by having balance and being raised by two conscientious, loving biological parents whenever possible.

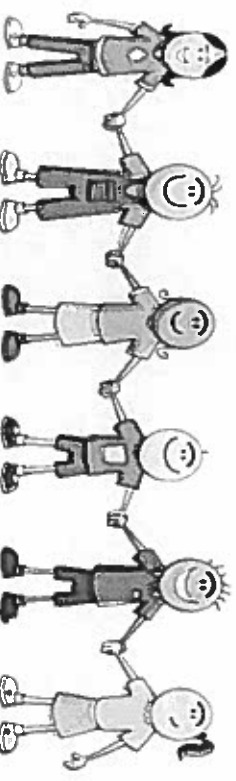


What Do Experts Say?

➤ The American Psychological Association peer reviewed flagship journal; *Psychology, Public Policy and the Law* recently published a paper on Shared Parenting endorsed by 110 of the world's leading experts in the area of child development and attachment.

➤ Shared Parenting is supported by over 43 peer-reviewed papers.

➤ The largest study of children ever conducted who had experienced their parents' divorce or separation (over 150,000 participants), concluded shared parenting yielded the best child well-being outcomes.

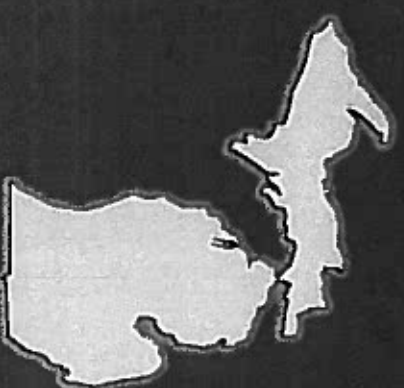


Realizing the best parent for a child is both parents ...



- 25 states are considering shared parenting bills in this legislative session.
- Utah, Missouri, and Arizona recently passed laws enabling children to spend more time with their fathers.
- Arizona lawyers now tell fathers their children have a 90 percent chance of being allowed equal (50 percent) parenting time. Reports have shown that all agree: the new law is working well.

Shared Parenting



A paradigm shift to encourage both divorced parents to play significant roles in the lives of their children.

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