



# **The Science of Shared Parenting**



Researched and Written by Victor Paul Borg

## Author's Note

This report may be described as a compendium on the science of shared parenting.

I carried out an extensive review of the scientific literature and then wrote the report in a manner that encapsulates the current scientific body of knowledge on the subject. I crafted this report – or paper – in a way that makes it useful for different type of users.

It can be useful to social scientists not knowledgeable of the science on child custody to get a handle on the science and use the references at the end for their own research or work. It can be useful to parents in the midst of separation – or contemplating separation – because it is written in a way that a non-scientific audience can comprehend. And it can be useful to policy makers, family court practitioners, and politicians to use it as a reference – the interactive, clickable Table of Contents (as well as references in the text) makes it easy to flip through.

It can also be useful to a general audience to browse through – after all, the wellbeing of children is everyone's business, and the high number of family dissolutions means that the impact of child custody has national implications.

Much work has gone into researching, compiling and writing this report. It has been a labour of love – no one has paid me for such work – I have been driven by a desire to see less children damaged by badly-handled and executed family separations.

Victor Paul Borg  
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# Introduction

Examination of statistics from various sources, including Parliamentary Questions and National Statistics Office reports, shows that the number of marital separations in Malta as a proportion of marriages is now substantial.

Here is a table that illustrates these figures:

Year	Marriages	Separation
2017	2934	1243 (court cases filed)
2018	2831	1358 (court cases filed)
2019	NA	1251 (court cases resolved)
2020	NA	1201 (court cases resolved)

*Data gleaned from Parliamentary Questions 19103, 8472, 3187 and report of the National Statistics Organisation published on 14 May 2020 (News Release 080/2020).*

The cohort of parents who are not married and end up litigation is reflected in the numbers of court cases filed or resolved in table above, but not in the column of number of marriage – due to this, it is not possible to make reliable extrapolation of number of separations as a percentage of child-bearing, family unions (whether married or otherwise).

Yet despite the incompleteness of the information, the statistics demonstrate that a substantial proportion of children are growing up in separated families.

This requires attention because of the potential effects on children, and, more importantly, because Malta has so far failed to adopt a science-based approach in assigning custody – this makes separations something of a silent epidemic among children.

Hundreds of studies over the past several decades have shown that children of separated or divorced parents are at greater risk of malfunctioning socially, developmentally, psychologically, and more susceptible to poor health. As a cohort, children who experience parental separation have poorer outcomes across all developments and personal health criteria (Lamb, 2018).

Marital separation undermines children’s emotional security, a precursor in



psychopathology (Davies, Meredith & Sturge-Apple, 2016; Fabricius, 2019). Moreover, a greater range of children of marital separation are exposed to risk factors of mental illness in adulthood by the post-separation environment and family situation – the risk factors include social isolation, incidence of parental mental illness, socioeconomic disadvantages, social stigma, parental neglect and child abuse or maltreatment [1].

It has been estimated, for example, that eradicating the detrimental impact of parental separation on children could lead to a 30 percent reduction in rates of mental health difficulties in young adults, a 30 percent decline in teenage pregnancies, and a 23 percent cutback in early school leavers or dropouts (Emery, 2011).

These findings, as well as rising rates of marital breakdowns in much of the world, have driven much research in the past 20 years into the effect of separation on children, and the optimal post-separation care arrangement for children.

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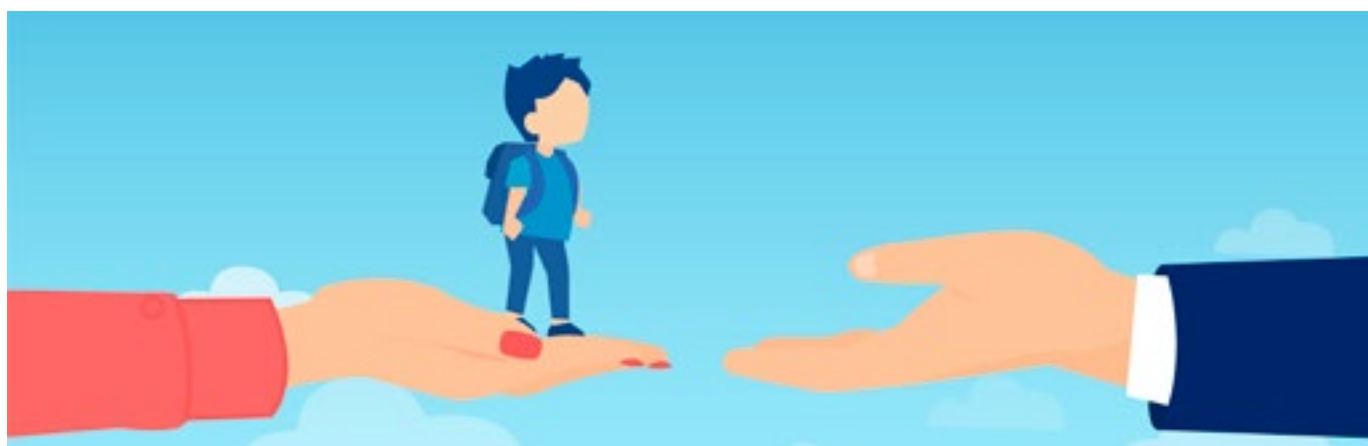
In the past ten years or so it has become amply evident that joint physical custody (JPC) – known in popular parlance as ‘shared parenting’ – is the best parenting arrangement for children all things being equal (the absence of abuse or violence, both parents willing and capable to parent, both parents possessing quality relationships with children – more on these points later in this report).



This emerges clearly in four meta-analyses (these are papers that review a range of studies to draw out the larger picture). Of these meta-analyses – Bauserman, 2002; Baude, 2016; Baude, 2019 – the most extensive was published in 2018 (Nielson, 2018). Nielson reviewed all sixty studies that compared JPC and SPC (Sole Physical Custody, in which the child lives mostly with one parent) and found that in all studies children fared better and had better development and psychological outcomes in JPC arrangements.

A large-scale Swedish study published 2015 found out that children who grew up in JPC arrangements and intact families had the same levels of psychosomatic manifestations (Franssen, Turunen, Hjern, Ostberg and Bergstorm, 2015) – this suggests that children in JPC arrangements have psychological adjustments equal to children growing in intact families.

Other results from several Swedish studies showed that there were no differences between children in JPC and nuclei families in regard to emotional or behavioral outcomes (Bergström, 2012; Fransson, Folkesson, Bergström, Östberg, & Lindfors, 2014; Fransson et al., 2017; Fransson et al., 2015; Turunen et al., 2017; Wadsby, Priebe, & Svedin, 2014). Several other studies also found that behavioural, emotional and psychological outcomes of children in JPC arrangements were not any different than children raised in intact families [2]. This is consistent with the studies cited by Nielson that children in JPC had development outcomes and psychological adjustment at comparable levels with (or as good as) children in intact families.



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William Fabricius, Professor of Psychology of Arizona State University and one of the leading world experts on child issues after marital separation, wrote in his 2019 paper (Fabricius, 2019): “I conclude that the overall pattern of evidence indicates that legal presumptions of equal parenting time would help protect children’s emotional security with each of their



divorced parents, and consequently would have a positive effect on public health in the form of reduced long-term stress-related mental and physical health problems among children of divorce.”

The findings in favour of JPC have become so consistent that the leading twelve experts that took part in a panel discussion at the international conference on shared parenting in May 2017 agreed that the science had now turned a corner. Most supported making JPC as [the default presumption in law](#) – in other words, family courts would have to justify any deviations from imposing JPC care arrangement on litigious parents. All experts – although agreed that JPC is the optimal arrangement – “were appropriately wary of a one-size-fits-all standard, cautioning that exceptions to a shared parenting [legal] presumption need to be recognized as appropriate bases for rebuttal.” (Sanford, Braver & Lamb, 2018; Braver & Votruba, 2018).

Among appropriate bases for rebuttal, some papers raise questions on the interaction between JPC and certain factors – parental conflict, parents’ mental health, quality parenting – and whether these factors, and especially to what extent, undermine the benefits of JPC (Baude, 2019). These points are explained extensively on [page 19 of this report](#).

Yet an indication of how far the science has advanced can be seen from the evolution on the matter of longtime post-separation parenting researcher Sanford Braver of the Department of Psychology of Arizona State University. In a paper published in 2018, he wrote: “About 20 years ago, the first author wrote [Sanford Braver himself], “There is simply not enough evidence available at present to substantiate routinely imposing joint residential custody . . . there are too few cases adopting [it] to perform statistical analyses” (Braver & O’Connell, 1998, p. 223). That was before. A large number of those studies have since been performed, and the state of the newer evidence is almost completely supportive. On this basis, we contend that the burden of persuasion has shifted to those who oppose a presumption of JPC” (Braver & Votruba, 2018).

This position was adopted in November 2018 by the Council of Europe, which passed a resolution encouraging member-states to make shared parenting the foundation of family law (Kruk, 2018).



# Evolution of the science on shared parenting

*The social science on custody for children following marital separation has evolved in the fifty years since the psychologist John Bowlby enunciated the concept of monotropy. Family court decisions on custody developed in parallel with – albeit in a sinewy and even at times divergent manner – the evolution of the scientific consensus. Fathers were fully in control of family affairs until the mid-eighteenth century, and then eventually mothers gained full physical custody of children in the latter quarter of the twentieth century. Now a new reevaluation and rebalance has been taking place in the last 20 years as JPC has moved to the fore, though family court decisions trail the science.*

## Primary attachment theory

In 1969 John Bowlby enunciated the theory of monotropy, which held that children develop a primary or supreme attachment with one parent, and that that parent is likely to be the mother. The theory took hold, and a group of influential researches began to maintain that young children would be harmed if they spent extended times away from – especially overnights – their mothers. Years later Bowlby himself began to doubt the monotropy theory (Warshak, 2014).

## Tender years doctrine

The concept of monotropy gave rise to what is known as the tender years doctrine: that mothers had to have physical custody of children until the age of 7 years old. This eventually evolved to a situation of mothers having custody of children of all ages (until the children are about 14 years old and can decide for themselves),



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and fathers seeing children at the discretion of the mother (Warshak, 2018).

## Simultaneous attachments

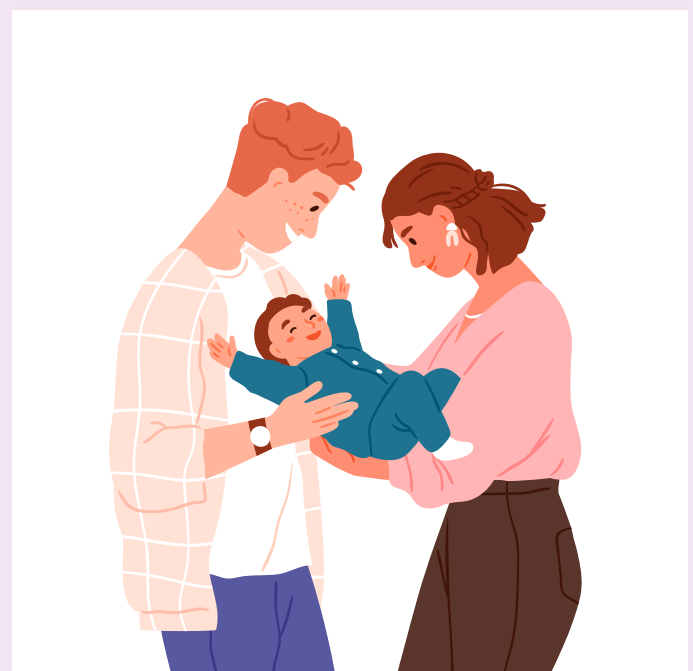
Subsequent research modified Bowlby's theory of attachments, and monotropy was superseded by the idea that children develop simultaneous attachments to their two parent figures (Emery, 2011; Warshak, 2014). The scientific paradigm began to shift decisively in 1994 when a working group of experts concluded that parents had to be involved in all aspects of children's lives to "remain psychologically involved and play central roles" in their children's lives (Warshak, 2014).

Children are now known to develop attachments at around six months old, and children who have secure attachments to both parents have better psychological adjustments and outcomes in adulthood (Lamb, 2018). Attachment theory now shows that children develop attachments to both parents, and that they cling to those attachments tenaciously in a variety of situations (Kruk, 2018). This has now led to the logic that infants and [very young children need some form of JPC](#) after marital separation because separation from any of their two attachment figures is psychologically damaging (Kruk, 2018).

More recent research has added layers of nuances to attachment theory. One of those is that children tend to develop a securer attachment to one of their parents depending on a variety of factors, chief amongst them the quality of the relationship with either of the parents.

Yet attachments are not static, they are fluid throughout childhood. The more secure attachment can tilt towards one parent or the other over time depending on a variety of factors. Likewise, attachment can evolve and change over time as the child grows (Braver & Lamb, 2018).

Within this context, having the two parents remain fully involved post-separation allows the child the chance to form a secure attachment with at least with one of the parents (Nielson, 2018), and then allow that attachment to evolve and shift as the child grows.



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# The scenario after family separation

*Research into Emotional Security Theory, the effect of father, and the effect of having a quality relationship ideally with both parents in JPC arrangements has transformed the consensus among social scientists in the last 20 years.*

## The effect of separation

Emotional Security Theory, fully formulated in 1994, explains why marital separation can be psychologically damaging to children (Davies & Cummings, 1994). Parental separation happens within the context of parental strife, and that attacks the very idea of a child's world. A child's world revolves around themselves: children assume that parents are there to serve their needs, whether practical and emotional. And in this sense, the conflict between the parents as well as the act of the parents splitting or going separate ways – which is dramatically symbolized by moving apart into two different abodes – destabilizes the child's sense of emotional security. Even before the formal split, any conflict between the parents disturbs a child's emotional security because the child fears, among other things, that their parents are too consumed in fighting one another and too consumed by the separation to be assured that they will continue to care for the child (Davis & Martin, 2013; Davis, Martin & Sturge-Apple, 2016).

Children's emotional security



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may additionally be impacted by post-separation turbulence and complications. In the post-separation situation, factors that exacerbate risks to emotional security include a slide into poverty or deteriorating standard of living, disorganized home environment or homes, moving homes often, new stresses that might affect one or two of the parents, mental health problems in one or two of the parents, and lack of meaningful parenting or contact with the nonresident parent in SPC arrangements (Emery, 2018).

Studies in Sweden have found a greater preponderance of mental health problems and poverty among separated parents than co-living parents. A large study in Sweden found that in many post-separation scenarios one of the parents tends to be unstable in a practical and emotional sense, and researchers postulated that shared parenting or JPC would ensure that children get



to benefit from having at least one parent who is stable (Bergstrom et al, 2015).

## The effect of loss of father

A limb of research has focused on the effect of the loss of the father as an effective parent (effective parent means being an involved parent, as opposed to having merely visitation or access rights to children). This is because in the majority of cases children still end up in SPC arrangements with the mother after marital separation, and fathers are reduced to diminished figures that play minor, if not practically irrelevant, parental roles. A raft of studies in the last fifteen years has shown that the absence of father, or diminishment to minor role, is deleterious to children.

Among the salient points found in a compilation of papers on paternity by leading experts (Tremblay RE, Boivin M, Peters RDeV, eds; Roopnarine JL, topic ed; March 2016), the absence or diminishment of father is particularly correlated with psychological adjustment issues in girls during adolescence. Fatherhood also has an effect on children's partnering and parenting skills in their own adulthood. And sixty-six international studies across cultures all found that fathers' warmth – more so than mother's warmth – is more essential for children's psychological

## What does 'adjustment' mean?

This is a concept in psychology that in the context of this report refers to the capacity of children to adapt or adjust to their environment or milieu during their growth and development. Adjustment in this sense has various limbs, such as emotional adjustment (measured through measures such as anxiety or depression, social withdrawal, somatic complaints, self-esteem), behavioural adjustment (aggressiveness, misconduct, hyperactivity, and so on), alcohol or substance abuse, social adjustment (social skills, social integration or involvement, and so on), and general adjustment (which looks at things such as emotional and behavioural problems, and classroom adjustment).

adjustment and wellbeing.

A meta-analysis (Sumbleen Ali, Abdul Khaleque, & Ronald P Rohner, 2015) of international studies hailing from different cultures drew correlations between acceptance by each parent throughout childhood and psychological adjustment and wellbeing throughout life. Sex of offspring was found to make a difference: for boys, mother acceptance mattered slightly more than father's acceptance; for girls, father acceptance mattered markedly more than mother's acceptance. Overall, acceptance or approval by fathers was more determinable than mothers' acceptance.





William Fabricius, a professor of psychology at Arizona State University who has conducted various studies on children of divorce, wrote in a recent study: “Our latest study in this line of work (Suh, Fabricius, Stevenson, Parke, Cookston, Braver, & Saenz, 2017) found that adolescents’ perceptions of how much they mattered to their fathers were actually more important than their perceptions of how much they mattered to their mothers for predicting their later mental health” (Fabricius, 2019).

In a paper on JPC (or shared parenting) and psychological adjustment (Lamb, 2018), an analysis of studies that showed that how much children matter for the two parents was more important for

psychological adjustment than how much they mattered for mothers.

Other studies held that an additional benefit of having two parents equally involved in children’s lives post-separation is better because it gives children a greater probability of developing a secure attachment with at least one of the parents – the development of secure attachment with one of the parents at least, and the two parents ideally, is essential for children’s psychological outcomes (Warshak Richard A, 2014).

Studies have also been showing that that greater involvement of parenting by fathers serves to mitigate the effects of [emotional insecurity](#) engendered by marital breakdown (Fabricius, 2019).



# The science of shared parenting

Studies over the past twenty years have consistently shown that JPC or shared parenting (as opposed to SPC, sole physical custody) generally produces better outcomes across all measures of children's development – this includes educational, social and psychological outcomes. This includes four meta-analyses (Bauserman, 2002; Baude, 2016; Baude, 2019; Nielson 2018), all of which generally found that JPC is better than SPC.

The most extensive of these meta-analyses (Nielson, 2018) looked at sixty studies that compared JPC and SPC. Fifty-three of these studies were published in peer-reviewed journals, while seven were commissioned by the Australian government. In 34 of the studies, JPC produced better outcomes across all measures of health and wellbeing, while in 14 studies children in JPC had better outcomes on some measures and equal scores on others. Six studies had mixed results depending on variables. Deeper analysis of these six studies revealed that JPC produced these mixed outcomes in cases in which children did not have a good relationship with their father, and this raises the question whether it is JPC or the relationship with the father that was the detrimental factor (or the determining factor in the study results). The only study that found overall better all-spectrum



Family problems



Telling a child about divorce



Parent meeting after divorce



outcomes for SPC children was a study of chaotic, impoverished, and dysfunctional families – Nielson postulated that in these cases children would have had overall bad outcomes irrespective of the post-separation arrangement, although SPC had outcomes less bad.

Various studies have found that JPC itself might serve to counteract the negative effect of parental separation. This is to a large part because – as already pointed out above – children in JPC have two parents with whom to develop secure attachments (Nielson, 2018). And attachment to the parent that is more stable mentally, and more socially and economically resourceful, serves to buffer the negative effect on the child of the parent who is less stable, as well as provide the child with at least one stable family/home environment (Franssen et al, 2015).

A large-scale study, involving 172,000 children, found that psychosomatic symptoms in children are more prevalent in children in SPC arrangements than in children in JPC arrangements. Although the researchers found a correlation between incidence of psychosomatic symptoms and the parent's material resources or wellbeing, as well as the quality of parent-child relationship, these variables were independent of the two alternative custody arrangements, JPC versus SPC.

This led to the conclusion if these variables were accounted for or discounted in comparisons, then all things being equal it was SPC that was the main determining factor in greater prevalence of psychosomatic symptoms (Bergström et al, 2015).

Another study (this time involving 5,280 children) that measured psychosomatic symptoms in children of all family types found no discernable difference in prevalence of psychosomatic symptoms between children in intact families and children in JPC, but greater psychosomatic symptoms among children in SPC arrangement (Franssen et al, 2015).

The findings of these two large-scale studies in Scandinavia are consistent with a range of smaller studies in the US (Bergström et al, 2015). These studies resoundingly rebut the notion, which is still widespread among the legal profession and family courts of various countries (including Malta, with its social conservatism, and where this report is primarily published), that having two homes – and going from one home to the other – engenders instability that is detrimental to children.

Arguments are often posited in the family court that it is a source of instability for children to have two sets of rules and two households. This has been disproven in science:





children are resilient and they adapt seamlessly to two homes – they have no issues adapting to two sets of house rules and two households – and the benefit of maintaining a quality, nurturing relationship with the two parents is of far greater importance in psychosocial development than any practical inconvenience of living out of two homes (Kruk, 2018).

In keeping with the Emotional Security Theory, the stress associated with the loss of meaningful parenting by one of the parents, as well as the stresses and instabilities of single parenthood – single parents are more likely to be economically

disadvantaged, emotionally stressed, and susceptible to mental illness – is what matters most significantly in terms of children’s wellbeing. Living out of two houses, and moving between houses, is merely a minor tradeoff for greater psychological wellbeing or adjustment, as well as educational and social attainment or adaptation – and this is in spite of any practical inconvenience of living out of two homes (Fransson, 2018; Bergström et al, 2015).

Much research in the past decade has focused on JPC in the context of high-conflict marital separations, or more specifically whether JPC is beneficial or detrimental for



children in families in which parental conflict after marital separation remains high. The research has dispelled fears that shared parenting is deleterious in situations of high interparental conflict: JPC is beneficial in virtually all scenarios, including in post-separation couples locked in high interparental conflict, for as long as the conflict does not directly involve the children and is not physically violent or extreme in other ways (Kruk, 2018).

The recent research has established that even in cases of interparental conflict, children only fared worse when they did not have a quality relationship with one of the parents – a good, qualitative relationship with the two parents offsets any impact of high conflict. On balance, JPC in high conflict scenarios – at least for as long as children enjoyed quality relationship with each parent – is better for children’s psychological and development outcomes than SPC (Nielson, 2018).

Quality parenting is defined in the two sections below. The interaction



between JPC and parental conflict, and quality parenting and parental conflict, is dealt in detail in the section below titled [Parental Conflict and Shared Parenting](#) on page 19.

Shared parenting also confers benefits to separated parents. Some studies have shown that parents at either end of the spectrum of SPC – those who take care of the children, as well as those who only have access or visitation rights – are at greater risk of ill-health generally, and their parenting is less healthy and qualitative (Fransson, 2015).

The evidence is now unequivocal that JPC is better than SPC in the vast majority of family situations. And it remains the better option even when taking into account any limitations of research design (Braver & Votruba, 2018).

## Defining Shared Parenting

Researchers have defined JPC or shared parenting as an arrangement in which the child is in the care of

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each parent, or in the care of the less-involved parent, at least 35 percent of the time. Some scientists have put the threshold at 30 percent (Fabricius et al, 2012; Mahrer et al 2018), but the larger body of research has defined JPC as the secondary or less-involved parent having at least 35 percent care-time (Nielson, 2018).

In the JPC model, each parent has to be involved in a range of situations with the child to allow the development of a quality relationship or quality parenting that aids children's development outcomes and psychological adjustment. Quality parenting has been defined

as warmth and communication, involvement in a range of the child's activities, and effective discipline (Mahrer et al, 2018). Overnights are considered crucial for the development of quality parenting because they allow each parent to be involved in rituals and activities prior to bedtime, breakfast-time, and preparation and conveyance to school and so on. This suggests that, at the 35 percent threshold, the least-involved parent should have child sleep in his residence on at least five nights over a two-week stretch.

In a meta-analysis published in 2016 (Baude, 2016), the point was made

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that the benefits of JPC are only significant if children spend a more-or-less equal time with each parent (forty to fifty percent of the time).

The same point emerges from the latest paper of William Fabricius, who posited that each parent must have half of the time for the sake of child's emotional security. He cited recent studies, including studies by himself, that showed that particularly in high-conflict families, [emotional insecurity](#) remained at 35-percent parenting time. He argued that in high-conflict families, children can feel threatened because they worry that the conflict will make their parents emotionally and physically unavailable, and unable to cooperate to provide for their [the child's] needs. This worry remained present when children were in the care of one of the parent 35-percent of the time, but the worry was (or is) assuaged at equal time placement, which thus protects children's [emotional security](#). This study or thinking represented an evolution from Fabricius' earlier studies (Fabricius, 2019).

In personal communication via email correspondence in the latter half of 2019 between the author of this paper and Fabricius on this point, Fabricius said that the finding that the parenting plan has to have equal time placement for [children's emotional security](#) had been "originally reported in a paper by other researchers in 2000." He

added that it had then been ignored by other researchers, and added that "we have recently found the same thing in two of our studies."



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# Parental conflict and shared parenting

The concern or idea that JPC may be damaging to children in a context of parental conflict has generated much research and debate about the interactions between JPC and parental conflict. A vocal minority of social scientists have been asserting that parents who litigate are by definition locked in conflict, and JPC should not be countenanced to litigating parents. These scientists advocate JPC only to parents who reach amicable out-of-court settlements on coparenting (Warshak, 2014).

The logic of this view is that family breakdown is detrimental to children's wellbeing because it undermines their emotional security, and post-separation parental conflict amplifies the effect on children's emotional security (Davis, Martin & Sturge-Apple, 2016).

In high-conflict post-separation parenting, children can feel threatened because they worry that the parents would be so consumed by the conflict against one another that they would become emotionally and physically unavailable to the child, and unable to cooperate to provide for the child's needs (Fabricius, 2019).

And while virtually all social scientists now agree that JPC is the optimal

post-separation arrangement, some of them continue to make exceptions in cases of parental conflict and additionally for children under four years old (the question of [JPC for very young children is dealt on page 27](#)).

This was reported in a meta-analysis, which held that JPC was beneficial when the parents succeeded in providing a nonconflictual environment, but its positive effects could not be guaranteed when interparental conflicts were high (Baude, 2016). Three years later, another meta-analysis (Baude, 2019) also made similar

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points, saying that conflict between parents can undermine the benefits of JPC, and then recommended that a way around this was to reduce hand-overs directly between the parents (for example, children could be dropped off and picked up at school).

Yet the idea that JPC is deleterious in all types of parental conflict,



including parents caught up in litigation, has been dismissed as simplistic by most researchers. Proponents of the theory that shared parenting is damaging to children in acrimonious family separations typically make no distinction on type and intensity of conflict, the heterogeneity and dynamics of the conflict, and particularly children's exposure to it (Kelly, 2012). Parents' acrimonious litigation and conflict

oppose JPC to initiate and maintain the conflict to sabotage or foil JPC arrangements (Kruk, 2018; Warshak, 2018). Women are more likely to resort to such sabotaging tactics because of the propensity of family courts that, if it comes to having to lean to one side or another, are more likely to assign physical custody to the mother. This situation then disincentivizes cooperation and communication by a parent who



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would have no effect on children if the parents keep the children out of the conflict (Kruk, 2018).

Upholding the idea that JPC should not be countenanced in cases of parental conflict would also encourage those parents who

wants physical custody; it may also unwittingly reduce the child's time with – and undermine the child's relationship with – the parent who is less hostile and more cooperative and positively enabling (Garber, 2012; Warshak, 2018). Moreover, such a generalized policy implies that



both parents generate the conflict, but in many cases it is one of the parents who may be victim of the other parent's hostility or campaign of denigration/aggression intended to marginalize the targeted parent's involvement in parenting (Friedman, 2004; Kelly, 2003; Kelly, 2012).

Writing about this point, Richard Warshak (Warshak, 2018) wrote that "automatically restricting children's time with one of the parents when a couple is labeled as 'high conflict' deprives children of the protective buffer of a nurturing relationship with that parent. A policy that allows one parent to veto joint physical custody merely by claiming a conflicted relationship with the other parent provides motivation for parents to initiate, sustain, and escalate conflict and involve children in the conflict as a path to winning sole physical custody. In many cases, children can be protected from frequent exposure to conflict without depriving them of important time with a parent."

The leading experts have never advocated ruling out JPC in high-conflict separations. As early as 1994, a multidisciplinary group of experts that met under the auspices of the U.S. National Institute of Child Health and Human Development did not express an opinion for or against JPC in high-conflict post-separation families (Lamb, Sternberg, & Thompson, 1997). Another group

in 2013 advocated a case-by-case approach, and 110 experts a year later generally recommended JPC in most high-conflict separations (Mahrer et al, 2018).

In so-called consensus report of 2014, the 110 experts concluded after an extensive review of the science that JPC can act as a buffer in high-conflict separations. They recommended that family courts identify the dynamic and origins of the conflict and then attempt to work with parents and children to tackle the underlying causes or fount of the conflict, as well as device parenting plans that minimize the frequency of children's transitions between parents, hence minimizing the potential for outbreaks of hostility during transitions. They put forward the argument that shared parenting itself presents such opportunities because, for example, a visitation of two hours would mean two transitions in an afternoon, and hence it would be better if



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the parenting plan minimizes the transitions by providing for larger blocks of alternating time in each parent's care. They also advocated transitions in neutral locations – for example, children being dropped off or picked up directly from school, or childcare centres. (Warshak, 2014)

The recommendations of the consensus report were intended to minimize children's potential exposure to the conflict while remaining in line with the underlying science that JPC remains the preferable option in high-conflict separations (Warshak, 2014).

Even as far back as 2002, a meta-analysis of 33 studies showed that children in JPC had better

emotional, behavioural and academic functioning than children in SPC irrespective of the level of conflict between the parents (Bauserman, 2002).

More conclusive and nuanced findings were reported in the more recent review of 60 studies that compared JPC and SPC by Linda Nielson (Nielson, 2018). In her analysis of one of the studies she wrote that "even in the highest conflict families and even when the children were caught in the middle, JPC teenagers fared better. In both types of families [JPC vs SPC], adolescents who did not feel close to either parent had more emotional and behavioral problems than adolescents who were caught up in



the high ongoing conflict.”

Nielsen added: “Indeed, in high-conflict families, JPC children were more likely than SPC children to get caught in the middle – and yet they still had fewer problems than SPC children. The researchers attributed this to the fact that JPC children had closer relationships with their parents, which offset the impact of high conflict. In short, quality of parent–child relationships trumped conflict and income, but the greatest benefits only accrued when quantity of parenting time through JPC was added to the mix.”

The picture that has emerged in research is that high parental conflict has no detrimental effects on children – even if the children are caught up in the middle – for as long as the child has a good, secure, quality relationship with both parents (Fransson, Hjer & Bergstrom, 2018).

Quality parenting is measured on the basis of parental warmth, parental involvement in a wide range of children’s activities, and effective discipline. Yet each parent has to have sufficient care-time in all daily situations or patterns for quality parenting to develop in the first place, and that means that each parent has to have at least thirty percent of the care-time, including overnights on weekends as well as weeknights (Mahrer et al, 2018).

Quality parenting has become one of the main underpinnings of children’s adjustment irrespective of custody type. Other variables are the capacity of the parents to deal with the separation, the parent-child relationship, and the parent’s mental health (Baude, 2019).

In the context of parental conflict, since conflict tends to subside over time, of greater importance is maintaining or developing quality parenting (Mahrer et al, 2018). Hence it’s best to find ways to limit children’s exposure to the conflict, to disincentivise the parent driving the conflict (by reducing parenting time, for example) – and, “in addition, given the association between quality of parenting by either parent and children’s adjustment in high-conflict divorces, efforts to strengthen and support a high quality of parenting could help promote child adjustment.” The paper concludes that it is important to consider parenting quality, but this is only possible if each parent has sufficient time for quality parenting to develop in the first place.

This brings us full circle: parental conflict is not detrimental to children in high quality relationship between parent and child, and for quality relationships to develop the amount of time spent with each parent would have to be in the region defined as JPC – at least greater than 30 percent of the time – and each parent has





with fathers to feel that fathers matter. But when care-time reached 45% of the time, in high conflict families, there was no difference than children who had less than 20% of the time with the father. He wrote: “Thus, equal parenting time, in and of itself, likely carries meaning to protect the child against insecurity about parent conflict”

to be involved in all aspects of the child’s life, making overnights in weekends as well as weekdays a prerequisite.

As already pointed out, Fabricius has now argued for equal time parenting in high-conflict families. He reported that emotional insecurity, and higher incidence of psychosomatic symptoms, of children of high conflict families spiked when children were with their father between 20–25% of the time, and remained when children were with one of the parents 35% of the time. The parent with the least care-time would typically be the father, and reduced time with fathers was found to affect children’s emotional security – this is particularly relevant given that [father’s approval is essential for the child’s development](#), and that children need interactions

(Fabricius, 2019).

Twelve child experts who took part in a panel discussion during the International Conference on Shared Parenting in Strasbourg in November 2018 concurred that, although JPC should be a legal presumption ([legal presumption is addressed in this report’s conclusion](#)), the occurrence of IPV (intimate partner violence) can be a basis for denial of JPC, and opting for SPC instead (Sanford & Lamb, 2018). They added that courts have to look into the nature of the violence to assess the implications for parenting plans, and referred to detailed studies in this regard (Kelly & Johnson, 2008). The latter study made a distinction between four patterns of IPV, and said that only one of those types, coercive controlling violence, should preclude JPC.





# The two junctures on road to shared parenting in the USA

The movement towards JPC in America, where much research has been conducted, passed its first juncture in 1994 when 18 experts hailing from developmental and clinical psychology, sociology, social welfare, and law met at a conference centre under the auspices of the American National Institute of Child Health and Human Development. Their task was to review the literature, and examine the impact of separation on children as well as the custody arrangements after the separation. The discussions led to a draft, which was then circulated among other child experts in the ensuing months, and eventually published in a paper called *The effects of divorce and custody arrangements on children's behavior, development, and adjustment* (Lamb, Sternberg, & Thompson, 1997).

The report dealt with many issues, including strengthening the law to ensure that single mothers got maintenance money – they even recommended garnishment orders in law, something that was eventually rolled out in many countries, including Malta (in Malta non-payment of maintenance is a contravention in criminal law punishable by two months imprisonment).

Yet the experts took a strong stand in favour of involvement by the two parents – this was at a time when JPC or shared parenting had not been coined yet.

They wrote: “To maintain high-quality relationships with their children, parents need to have sufficiently extensive and regular interaction with them, but the amount of time involved is usually less important than the quality of the interaction that it fosters. Time distribution arrangements that ensure the involvement of both parents in important aspects of their children’s everyday lives and routines – including bedtime and waking rituals, transitions to and from school, extracurricular and recreational activities – are likely to keep nonresidential parents playing psychologically important and central roles in the lives of their children. How this is accomplished must be flexibly tailored to the developmental needs, temperament, and changing individual circumstances of the children concerned.”

Twenty years later, although the consensus around JPC had solidified, the question on whether JPC is good for very young children remained contentious. This led to the so-called Consensus Report,





a report which had input from 110 researchers and practitioners working under the auspices of the American Psychological Association. The report or paper addressed two points with regards to children under 4 years old: the extent that such young children should spend in the company of one or the two parents, and whether such children should spend nights in the primary residence or more equally in each parent's residence. The paper was published in the journal *Psychology, Public Policy and Law*.

In the abstract of the report, the following point was made: "Sufficient evidence does not

exist to support postponing the introduction of regular and frequent involvement, including overnights, of both parents with their babies and toddlers. The theoretical and practical considerations favoring overnights for most young children are more compelling than concerns that overnights might jeopardize children's development."

The findings of the report (Warshak, 2014) are covered more extensively in the box in the next page below because it is a contentious topic deserving specific coverage.



# Overnights for very young children

Although there is now scientific consensus on the benefits of JPC for older toddlers and other children, an element of debate and controversy remains on overnights with the nonresident parent for children under 4 years old. Some researchers have published papers that had mixed findings, leading to scepticism about the desirability of very young children and infants sleeping in two different homes. Chief among these have been studies of Jennifer McIntosh, an Honorary Professor of the School of Psychology of Deakin University, and prolific author of papers on maternity and children. McIntosh and some other researchers have advocated a primary residence where the child

would sleep most of the time, and then having regular and substantial daytime care-time for the nonresident parent – the nonresident parent would typically be the father.

In a research paper published in 2014 (McIntosh, Smyth, Kelaher, 2014), the question was put this way: “In the context of parental divorce, the inference of our focus is not that spending time and preserving relationships with both parents constitutes a stressful situation for a baby. Rather, our question concerns whether, inadvertently, a high quantum of overnight time away from a first ‘organising’ relationship, even when spent with a loved non-



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resident parent, may pose a strain for young infants during an important developmental phase, one hallmark of which is the emergence of capacities for coping with stress.”

In their research these researchers found a correlation between overnighing and emotional regulation/dysregulation, concluding that: “For infants and children under 4 years old, significant independent correlations were found between higher rates of shared overnight stays and unsettled, poorly regulated behaviours, but not for kindergarten/early school-aged children.”

with non-resident parent for children under 4 years old.

Warshak wrote that overnight care of very young children by fathers became increasingly acceptable until McIntosh’s 2010 paper. In his article, Warshak is critical of the chief studies that found against frequent overnighing for very young children. He wrote: “The Warshak (2014) Consensus Report identified multiple and serious flaws in the three studies used to justify concerns about overnighing (McIntosh et al., 2010; Solomon & George, 1999a, 1999b; Tornello et al., 2013).”



Then he went on to analyse each of the three studies, and their impact on family court decisions on overnighing at the two homes (the father’s and mother’s home) for very young children.

It is not the scope of this paper or report to delve into detail into the design of any studies – and

This study built on an earlier study (McIntosh, Smyth, & Kelaher, 2010). The 2010 study was described as “controversial” in a paper by Richard A. Warshak (Warshak, 2018) in which he rebutted the three main studies that posited against frequent overnighing

reproduce the detailed analysis of these studies in the Consensus Report – the point of this paper is to report on the broad trajectories and findings of the body of research, and interpret them in a way that gives the research



findings coherence and usefulness.

The so-called Consensus Report (Warshak, 2014) was drawn up to make a thorough scientific review, and enunciation, of JPC for very young children, and address any questions on JPC and especially overnighting in two homes by very young children under 4 years old.

As has already been pointed out, opponents of substantial or equal overnighting with fathers for children under 4 years old then went on to point out that frequent and regular daytime contact with fathers is beneficial to these very young children.

Warshak on the other hand made the point that overnights are essential for parents to be involved in all aspects of children's lives, and this enables them to become sensitive to children's needs. It also gives very young children the opportunity to form secure attachments to both parents. Statistically, while 40% of children form an insecure attachment to one of the parent only 18% form an insecure attachment to both of the parents – and being in the care of both parents, the logic goes, would ensure that the child has a higher probability of forming a secure attachment to at least one of the parents.

The Consensus Report was signed by 110 child experts and intended to formulate a consensus of sorts. Here is an excerpt from page 2 of the report: "Advocates' efforts against overnight parenting time for preschool children have generated confusion and uncertainty about where the scientific community stands on these issues. This document, begun in January 2012, is an attempt to stem the tide of this misinformation before this advocacy becomes enshrined in professional practice and family law."

The 110 researchers criticised what they termed as "selective reporting" in some studies, but also drew this caution or caveat: "At the outset we want to underscore that our recommendations apply in normal circumstances. They do not extend to parents with major deficits in how



they care for their children, such as parents who neglect or abuse their children, and those from whom children would need protection and





distance even in intact families. Also, our recommendations apply to children who have relationships with both parents. If a child has a relationship with one parent and no prior relationship with the other parent, or a peripheral, at best, relationship, different plans will serve the goal of building the relationship versus strengthening and maintaining an existing relationship."

Then they reiterated the point that children benefit from at least one secure attachment, and it is essential that they have this chance early in childhood. They argued that the hierarchical attachments suggested by some researchers are not supported in science and, besides, it ruins children's chance of forming secure

attachments with the two parents, or the nonresident parent.

They pointed out that in studies by McIntosh and Tornello almost 90% of the parents studied had never married and never lived together. They also said that some of the parents had troubled situations – being incarcerated, or having children out of wedlock from multiple partners, poverty issues, and so on.

Here is an excerpt from the Consensus Report: "To understand the receptivity on the part of the media and some of our colleagues to the dramatic warnings attributed to the outlier studies, we cannot rule out the fact that the studies' conclusions and the authors' recommendations reinforce



long-held gender stereotypes about parental roles. McIntosh interviewed neuroscientist Schore (Schore & McIntosh, 2011) who advanced the idea that women, but not men, are biologically wired to care for their babies, by virtue of having generally larger orbitofrontal cortexes and enhanced capacities for nonverbal communication and empathy – a 21st century spin on the ‘motherhood mystique’ and the tender years presumption (Warshak, 1992; Warshak, 2011).”

The tender years doctrine is explained [on page 8 of this paper](#).

“The results of the 16 studies relevant to parenting plans generally support rather than oppose shared parenting and overnights for young children. But predominantly the studies show little direct impact of overnights in the short run. The three studies that often are cited as evidence for the harmful effects of greater father involvement with young children actually found mixed or ambiguous results perhaps because the measures used were inadequate by scientific standards. Nevertheless the lack of long-term studies directly comparing different residential schedules for children who are raised from a young age in two

homes perpetuates debate among professionals and opens the door for opinions and recommendations that reflect hypotheses, speculations, and biases rather than scientifically established facts.”

The Consensus Report warned that



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parenting plans in which one parent has less than 6 days a month with the child “risks compromising the foundation of the parent-child bond.” The Consensus Report also cited a large Australian study that found that children who overnights with fathers at least 35% of time had better emotional health. The experts maintained that a parent’s consistent, predictable, frequent, affectionate, and sensitive behavior towards their infants is key to forming meaningful, secure, and healthy parent-child relationships. And the point is made that having



a secure attachment with at least one parent provides children with enduring benefits and protections that offset mental health risks of stress and adversity, and that having a relationship with two parents increases children's odds of developing at least one secure attachment. Nielson made similar points in the preface to a special issue of the *Journal of Divorce and Remarriage* dedicated to the scientific findings on JPC (Nielson, 2018).

children had a chance to “establish meaningful relationships” before family dissolution (Braver et al, 2018).

Moreover, very young children spending substantial time with each parent allows them to develop secure attachments. As has already been pointed out, there is consensus on the point that very young children ought to spend regular, substantial time with both parents. The contentiousness revolves over whether very young children ought to have regular or substantial overnights with the nonprimary parent – usually the father.

And as has already been pointed out, opponents of regular overnighting for children under 4 years old then went on to point out that frequent and regular daytime contact with fathers is beneficial to these very young children.



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Very young children are also often depressed by the separation, and they tend to blame themselves for the separation, and in this context JPC among young children is psychologically protective (Kruk, 2018).

Others made the point that infants and very young children are not adversely affected by extensive contact with the nonprimary parent (or caregiver) only for as long as these

Warshak argues that if fathers are good enough for young children during daytime, there is no reason why a distinction has to be made for nighttime (Warshak, 2018). He espoused that overnights are essential for parents to be involved in all aspects of children's lives, and this enables them to become sensitive to children's needs. It also allows very young children the opportunity to form secure attachments to both







parents. Statistically, while 40% of children form an insecure attachment to one of the parent only 18% form an insecure attachment to both of the parents – and being in the care of both parents, the logic goes, would ensure that the child has a higher probability of forming a secure attachment to at least one of the parents.

Others also wrote that overnights with fathers improve the father-child relationship, and hence secure attachments (Fabricius & Suh, 2017).

A study published last year (Jones, Foley & Golombok, 2022) found no difference in quality of parenting of very young children between fathers

who were primary caregivers and mothers who were primary caregivers. The researchers made it a point to point out that their study challenges the assumption in society that mothers are better suited to primary caregiving than men.



# Parental alienation and shared parenting

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Parental alienation is a condition that describes behaviour in which a child rejects a parent after a campaign of denigration by the other parent. Children are most susceptible to becoming alienated from one parent between the ages of 7 and 14. The condition could cause long-term psychological damage to children, and much grief to the targeted parent who finds himself or herself rejected.

It is a complex condition. Yet it has become much overused in custody litigation – mostly by fathers in family courts, who often make claims of the other parent’s attempt to alienate the child – and this has made it controversial. The discussion on parental alienation here shall be

limited to the interaction between shared parenting and parental alienation.

In this regard, the essential point that has to be made is that JPC acts as a buffer against attempts by one parent at alienation because spending time in the care of each parent over substantial amount of time allows the child to directly evaluate the behaviour of both parents, and hence see through the alienating parent’s negative depiction of the targeted parent. Children are also less likely to feel under pressure to align with the alienating parent if the other parent can offer an alternative, positively-enabling environment (Braver & Lamb, 2018).



# Conclusion: The Legal Presumption

The science on the optimal post-separation arrangement for children reached an inflection point around five years ago, when a consensus among social scientists emerged that JPC is the better arrangement for children after separation in normal circumstances.

Yet the science is also clear on two points:

- That JPC for very young children under 4 years old is only beneficial – and the better option – if the two parents have an established meaningful relationship with the child prior to the family separation, and hence both parents could offer quality and sensitive parenting. (In the case of a parent who lacks a pre-established meaningful or quality relationship, it is best for a child to be assigned to that parent’s care with a view towards developing such a relationship, and then incrementally increasing care-time accordingly, bearing in mind that [attachments may evolve over time as explained on page 9](#)).
- Even among older children, quality parenting by each parent is one of the determining factors in making JPC beneficial. However, quality parenting can only be maintained if each parent has sufficient parenting time, and if no quality or effective parenting exists with one of the parents at the point of separation, then it would be best if the child can spend increasing time with that parent so that quality parenting can develop and JPC arrangements eventually put in place. (For a definition of quality parenting, see the sections [Defining Shared Parenting](#) and, separately, [Parental Conflict and Shared Parenting](#) in this report.)

In the case of breastfeeding infants, there is the added practical necessity for cooperation between the parents to enable the child to spend substantial or regular time, especially overnights, away from the breastfeeding mother. This is because the mother would obviously have to pump breast milk and pass it on to the father during the time the child is in his care, particularly if overnighting.



In any case, in broad terms, the inflection point reached half a decade ago has led to a concept known as the 'legal rebuttable presumption'. This holds that the law and family courts have to have a presumption for JPC arrangements when assigning physical custody, and only decide otherwise if such presumption is rebutted by evidence that shows that an SPC arrangement would be better in a particular case.

JPC has been defined by many researchers as the least-involved parent having at least 35 percent of the care time, including overnights, although William Fabricius made the case (Fabricius, 2019) that the target should be 50:50 care arrangement for the maximum benefit of JPC. And a meta-analytic review (Baude, 2019) also found that the benefits of JPC only became significant when children had at least 40 percent of the care-time with the parent that has the least care-time.

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Family courts also have to proactively promote JPC in order to decide in the best interests of the child. This means that parents who would not be cooperative or attempt to find ways, or create conditions, to frustrate JPC

arrangements would have to be seen as standing in the way of the best interest of the child. And in such situations, family courts have to coax or guide parents towards cooperation and JPC. This can best be achieved by incentives and disincentives.

Although the ideal is equal parenting – the 50:50 ratio so to speak – courts have to regulate the modalities of custody arrangement to resonate with the circumstances of each case. The main variables influencing such modalities are the practicalities (the work situation of each parent), the pre-existing relationship with the child prior to the separation, any issues any



of the parents might have (mental health issues, home arrangement, and so on) and the quality of the relationship between child and each parent after the separation.

All of this means that judges in family courts have to become more specialized, and spend more time studying the circumstances of each case in order to take optimal, targeted decisions on post-separation time placement and care arrangement.

This requires a paradigm shift in the institutional setup for resolving post-separation custody arrangements. (This will be tackled in a separate report, which will become an addendum to this report.)

On the other hand, even if this paradigm shift happens, JPC would still not be for everyone. We have to keep in mind that a substantial number of parents are simply not interested in coparenting after separation and prefer to let the other parent carry the burden of parenting.

As such, there has to be wider social evolution and cultural change. This is because if equal parenting, or co-parenting, become more prevalent among intact couples or families, then it would be easier for everyone involved to ease towards JPC after separation.



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The most successful country in this regard is Sweden, where around 50 percent of children post-separation live in JPC arrangements. In Belgium, the corresponding figure is 30 percent, while up to 20 percent of post-separation children are in JPC in places such as Australia, France, and the US (Baude, 2019).





In Sweden, less than one in ten of couples that separated ended up litigating in court prior to 2018. This is a relatively low percentage, and one of the main reasons for this is the relatively high prevalence of involved parenting by the two parents prior to the separation, something that is engendered by State policies that promote gender neutrality in parenting and parenting equality [2].

What this shows is that for JPC to become more prevalent in Malta, as well as other countries, various elements have to advance in parallel. Chief among these are changes in attitudes within society, a paradigm shift and a better resourced family court, and the deployment of policies and reform in law that foster equal parenting in all scenarios, including intact families.



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