

Summary

Evaluation Parenting Plan

Each year, an estimated 50 to 60 thousand Dutch minor children are confronted with parental separation through divorce or ending of parental cohabitation. These children often have more problems than children of married or cohabiting parents. Continued interparental conflict after separation is a major determinant for future problems of children.

On March 1, 2009, the Promotion of Continued Parenting and Proper Divorce Act (*Wet bevordering voortgezet ouderschap en zorgvuldige scheiding*) came into effect. One element of this Act is that parents with joint legal custody of minor children are obliged to include a 'parenting plan' in their divorce petition. This plan should include parents' agreements on care taking, information exchange, and financial child support. By making formal agreements prior to divorce, the mandatory parenting plan aims to mitigate parents' conflicts about the upbringing and care taking of their children. This should reduce the adverse effects of divorce on children's wellbeing.

The current report provides a first step to evaluate the parenting plan. It does not include a comprehensive evaluation, but makes maximum use of existing data and literature.

Research questions

In the present study the following two main questions are addressed:

- 1 How is the parenting plan implemented in practice?
 - a To what extent do parents make formal arrangements with respect to children before and after introduction of the parenting plan?
 - b To what extent do the characteristics of parents without formal arrangements differ from parents with formal arrangements about the children?
 - c Do children know about their parents' arrangement, were they consulted by the parents when the terms of the arrangement were negotiated, and are they satisfied with the arrangement?
 - d What are the experiences of judges, lawyers and mediators?
- 2 To what extent are the objectives of the parenting plan achieved? That is, is/are there, in comparison with divorces prior to the mandatory parenting plan, on the long-term:
 - a more contact between parents and children;
 - b less interparental conflict;
 - c reduced social-emotional and behavioral problems of children.

Research method

Data for this study were collected through different methods: literature review, consulting existing data sources from Statistics Netherlands and the Council for the Judiciary, expert meetings and telephone interviews with lawyers, mediators and

judges. Furthermore, results of the study by Van der Valk & Spruijt (2013) were used (who drew upon data collected in the context of *Students and Families 2013*-research from the University of Utrecht). In the spring of 2013, this survey research was conducted among children aged 12 to 16 years, including 169 children whose parents divorced between 2004-2008 and 113 with parents who have been through a divorce between 2009-2013.

Parenting plan in practice

Arrangements on children

Of all divorces with minor children, the percentage including formal agreements about the children in the divorce decree increased from 59% in 2007 to 82% in 2011.

Among lower educated parents and 1st generation immigrants, absence of formal agreements on children were more common than among higher educated parents and 2nd generation immigrants. It was also more common within these groups when compared to native parents.

Involvement of children

The new Act obliges parents to indicate whether and how their minor children were involved in the preparation of the parenting plan. Children whose parents separated in 2009-2013 were more often aware that their parents agreed upon a parenting plan/child arrangements than children whose parents separated in 2004-2008. They were also more often consulted about these agreements. Both groups of children do not differ in satisfaction with the parenting plan/child arrangements.

The practice of lawyers and mediators

For some lawyers, the mandatory parenting plan has not led to major changes in their practice. Before the introduction of the parenting plan, they were already stimulating parents to make arrangements. For other lawyers, arrangements for children have become a permanent part of the divorce proceedings, whereas otherwise they might have paid no attention to it. The involvement of lawyers in drafting parenting plans can vary greatly. Lawyers' practices largely depend on the demands and abilities of parents and the kind of separation, varying from a joint petition to a high conflict divorce. There is a lot that parents can do themselves: On the Internet they can find tools for the development of a parenting plan as well as complete templates. A lawyer can offer templates too.

Little has changed for mediators. In the past, when parents wanted to make arrangements, they were already consulted and this has not been affected by the introduction of the mandatory parenting plan. Both lawyers and mediators note that the mandatory nature of the parenting plan can be beneficial for the process of separation as it stimulates parents to reach an agreement. There seems to be more interparental dialogue. It was however also noted that, because the mandatory components of a parenting plan can not be postponed until after the divorce, the divorce can be more time consuming than before.

Practice in courts

The introduction of the parenting plan led to many practical questions at courts. What to do if a parenting plan is not submitted or signed? From what age should children be involved in the parenting plan and to what extent should the content of a parenting plan be tested?

In 2010, the 'Landelijk Overleg Vakinhoud Familie- en jeugdrecht' (a national assembly of family judges), therefore provided recommendations to handle certain situations. As of yet, these recommendations were further supplemented and modified, and may be adjusted in the future if necessary. In practice of courts, the parenting plan forms no threshold to separate. A petition may be filed without a parenting plan, but only if it is adequately explained by parents why it could not be established.

Position of parents

Lawyers and mediators distinguish three types of divorces:

- 1 parents who wish to make arrangements for their children and manage to do this themselves reasonably well;
- 2 parents who continue fighting each other in the context of their relationship problems and who cannot reach an agreement;
- 3 parents who are in between: reaching an agreement is difficult or the consultation process takes some time.

For the first group the mandatory parenting plan has no impact. They would have made arrangements even without the obligation.

The second group will not be able to establish a parenting plan and this plan will not solve their problems. These parents are generally not able to communicate effectively with each other.

The third group may profit the most. Otherwise, this group might have made no arrangements or postponed them. The parenting plan can make these parents aware of the consequences of the divorce for the care and upbringing of their children and the mutual coordination this takes.

The findings suggest that parents vary greatly in how they give substance to the mandatory aspects of the parenting plan. Parents can differ in the extent to which they take the parenting plan seriously (a formality or not) and in the extensiveness of their arrangements (from global to detailed). Financial considerations may also play a role in the choices they make (e.g. a cheap online divorce arrangement or a more expensive consultation of a mediator).

Objectives of the parenting plan

Contact between parents and children

One of the principles of the Promotion of Continued Parenting and Proper Divorce Act is that, after the divorce, children stay in contact with both parents and that both parents continue to feel responsible for the care of their children. The current research focused on the frequency and the quality of the contact. Students (12-16 years) were asked in 2013 about their living arrangements (father, mother or co-parenting), how often they have contact with their father and mother and the quality of the relationship with their father and mother. Pupils whose parents separated in 2009-2013 had more frequent contact with the mother and reported less relationship quality with their father than pupils whose parents separated in 2004-2008. The frequency of contact with the father did not differ between both groups. These findings suggest that children's contact with their father did not increase after the introduction of the parenting plan.

Conflicts between parents

Parental conflicts were measured in different ways. Students reported about the extent to which their parents had conflicts before separation and the extent to which they have current conflicts. In addition, legal conflicts about the children were

examined (i.e. custody, care or visits, and child maintenance) on the basis of data about the number of legal aid assignments and court cases. For children of divorce group 2004 - 2008, the current parental conflicts decreased compared to the conflicts prior to the separation. For children of divorce group 2009 - 2013, the degree of current conflicts is at the same level as before the separation. It should be kept in mind that these differences may also be related to differences between the two groups of children in the elapsed time between the divorce and the questionnaire. On average, the difference was about four years (three years had elapsed for group 2009 - 2013 and seven years for group 2004 - 2008). The number of legal conflicts between parents, as indicated by court data, show a decreasing trend, as to care arrangements, or discontinuation of a rising trend as to compliance of care arrangements and determination of child maintenance. A decrease in litigation was not observed for users of subsidized legal aid. Divorcees who used subsidized legal aid did not differ in usage of legal aid for alimony and care arrangements in a three years period following the divorce. For separated cohabitants, however, a decrease was observed in subsidized legal aid provision for alimony and care arrangements.

Children's problems

The children (surveyed in 2013) who experienced a divorce after 2009 reported a lower well-being and somewhat more depressive feelings than the children whose parents divorced before 2009. For other problems, that is aggressive behavior, emotional problems, delinquent behavior, school grades, and loyalty problems, no differences between the two groups of children were observed. These research results at best indicate that the extent to which children of divorced parents experience problems did not decrease after the introduction of the parenting plan. The current study however can not be conclusive about these effects because, first and foremost, this should be measured in the longer term. Most children are still in the process of separation and therefore had little time to adapt to the new circumstances. In the context of the S&G-research, children were interviewed in 2013. That was up to three years after the introduction of the parenting plan. For most children, the time between separation and participation in the study is even shorter. We therefore might have captured only short-term effects. When the long term effects of the parenting plan on the well-being of children are evaluated, results may be different and conclusions more definite.