



Parental access arrangements after divorce

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Summary

The aim of this literature study is to clarify whether it is desirable to introduce a legal starting point that in principle distributes the care rights and obligations after divorce equally between both parents, but where the parents – or if necessary the judge – are free to arrive at a different distribution. The reason for this investigation is a motion tabled by Christian Union (*ChristenUnie*) MP Van der Graaf in July 2018. In this study, we made an inventory based on findings known in the literature about the advantages and disadvantages of a more or less 50/50 distribution in relation to the well-being of those involved in the divorce family.

Our research shows that the literature provides no direct or indirect arguments to conclude that a legal starting point for an equal distribution of care rights and care obligations would be desirable to serve the interests of children and parents in divorce. For example, the empirical evidence suggests that legislative changes do not have the intended positive effects. We came to this conclusion on the basis of a step-by-step analytical setup, consisting of three steps.

In step 1, we gained an overview of the differences in well-being reported in the literature between those involved in co-parenting families and those involved in non-co-parenting families. The analysis of the literature showed that there are many evidence-based positive findings for co-parenting and one single negative finding. On the positive side, well-being in general is higher for children (Poortman & Van Gaalen, 2017), they experience fewer psychological problems (Bauserman, 2002; Westphal, 2015), they experience fewer emotional and behavioural problems (Amato & Gilbreth, 1999; Bauserman, 2002), their stress levels are lower (Turunen, 2014), their relationship with both their parents is better (Sodermans & Vanassche, 2015; Westphal, 2015) and their relationship with their grandparents from both sides is better (Westphal, 2015). Positive for parents is that there are indications that they have better physical and emotional health compared to single-headed families (Melli & Brown, 2008), that it has been proven that there is a more equal distribution of care tasks (Bakker, 2015) and therefore less time pressure for mothers (Botterman et al, 2015; Sodermans & Vanassche, 2015; Vanassche et al, 2015), as a result of which mothers can lead a more balanced life and experience less stress (Bakker, 2015), and, also for mothers, more space is available for their careers (Botterman et al, 2015; Sodermans & Vanassche, 2015; Vanassche et al, 2015), and their chances of finding a new relationship are higher (Bakker, 2015; Sodermans & Vanassche, 2015). For children, an established negative finding regarding co-parenting is instability due to the moving back and forth between both parents (Baude et al, 2016; Havermans & Matthijs, 2011; Havermans, Sodermans & Matthijs, 2015; Fehlberg et al, 2011; Vanassche et al, 2011). The evidence-based negative results of co-parenting on parents relate to fathers. They experience more time pressure (Van der Heijden et al, 2016) and their chances of finding a new relationship are lower (Bakker, 2015). None of the studies cited checked for specific characteristics of parents who opt for a co-parenting arrangement.

In step 2, these specific characteristics did play an important role. We investigated whether the mostly positive findings about the well-being of those involved in a co-parenting arrangement are causally related to this arrangement, or whether there are other reasons for these findings. Based on the literature studied, it is plausible that a large part of the differences in well-being between families with and without a co-parenting arrangement are not the result of the co-parenting arrangement, but of selection effects. The main selection characteristics are: a relatively high socio-economic status (Bakker, 2015) (subdivided into being highly educated (Bakker & Mulder, 2013; Poortman & Van Gaalen, 2017; Spruijt & Duindam, 2009) and having many economic resources (Bakker & Mulder, 2013; Poortman & Van Gaalen, 2017; Westphal, 2015)), a relatively low degree of conflict between the parents, both before and after the divorce (Poortman & Van Gaalen, 2017; Spruijt & Duindam, 2009; Spruijt & Kormos, 2014; Steinbach, 2018; Westphal, 2015), and a relatively high degree of involvement of both parents in parenting (Bakker, 2015; Sodermans & Vanassche, 2015). However, there are also studies that conclude that the benefits of co-parenting for the well-being of children remain intact, even if the selection characteristics are not (all) met (Nielsen, 2017; Nielsen, 2018; Turunen, 2017). Although these oppositions exist, it seems likely that the positive effects of a co-parenting setting on the well-being of children do not necessarily have a causal relationship with the co-parenting arrangement, but that these positive effects can often be explained in a different way, namely on the basis of a number of selection characteristics. These main criteria are: a high socio-economic status, a low degree of conflict and a good parent-child

relationship. Since this selectivity will largely disappear with a legal introduction, in the next step we looked at the experiences of countries in which such a legislative change already took place.

In step 3, we looked at other countries that already introduced co-parenting as a priority model, to learn more about the consequences of this. The three countries that were central to this part of the study were Sweden, Belgium, and Australia. After examining the effects of the introduction of co-parenting as a priority model (which is closest to a legal introduction of a 50/50 distribution), the main results are that:

- 1) co-parenting is not a solution to achieve more communication and/or cooperation between the parents, nor to manage conflicts between parents;
- 2) co-parenting as a priority model is too much based on the parents, who will regard fifty percent as the highest attainable goal to which they think they are 'entitled', and subsequently may lose sight of the interests of the child.

Because both points have a negative impact on the well-being of the child, in Sweden there has been a reform of the law: in the current system, the Swedish court is obliged to be alert to risk factors, such as parents who deeply distrust each other and parental stubbornness. In Australia, too, due to the negative effects of required co-parenting it is no longer a priority model, and instead the focus has shifted to the protection of the child from exposure to violence. Finally, Belgium also wants to revise the co-parenting model as a priority model and wants to focus more on counselling couples who are separating.



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