



*Leading Minnesota's
campaign for healthy fatherhood.*

Date: April 2010

To: MFFN members, policymakers, and stakeholders

From: Melissa Froehle and Paul Masiarchin, Minnesota Fathers & Families Network

Re: Position Statement on a Statutory Presumption of Joint Physical Custody in Minnesota

The **Minnesota Fathers & Families Network** is a statewide nonprofit organization that enhances healthy father-child relationships by promoting initiatives that inform public policy and further develop the field of fatherhood practitioners statewide. As part of our 2010 Policy Agenda, MFFN has taken a position to not endorse a statutory presumption of joint physical custody in Minnesota. We believe that this position is consistent with our mission to enhance healthy father-child relationships. We recognize that this is a complex issue without easy answers. And it is an issue with strong passions on all sides. With that in mind, we provide this information to deepen the understanding of our position for our members, policymakers and stakeholders.

Rationale for our position. At the heart of our position, we believe that the best evidence available does not show that a presumption of joint physical custody will produce a net positive gain for healthy father-child relationships. We are concerned that the reliance on this type of a simple, generalized, “cure-all” mechanism to improve father-child relationships—a very complex and multi-faceted problem—is misplaced. In sum, based on the best social science research available, joint physical custody seems to be a workable arrangement for only a small percentage of parents, most of whom would not benefit from a legal presumption because they can agree to such arrangements. A presumption in law for joint physical custody cannot create the skills necessary to make it work, such as a high degree of parental cooperation and ability to keep conflict away from children. Moreover, a legal presumption cannot fulfill the pressing need to help parents learn to co-parent and manage conflict. When those skills are missing, there are serious concerns about the outcomes for child wellbeing and the longevity of father-child relationships.

What we support. Instead of creating a presumption of joint physical custody, we support other promising alternatives, such as a child-focused intervention used in mediations in Australia. Results from this intervention found greater satisfaction by fathers with care and contact arrangements of their children despite initially lower levels of overnight contact than fathers wanted. Closer to home, we support the Hennepin County Co-Parent Court, which will help us understand how to support co-parenting and thereby increase father involvement.

We are a statewide organization working to enhance healthy father-child relationships. We have decided to not endorse a statutory presumption of joint physical child custody that would require children to automatically live in two different homes on an equal or nearly equal basis.

We believe that father involvement can be increased through better legal and familial tools. Most importantly, we believe that a legal presumption would fail to address the underlying causes of family distress and conflict – and in many cases this would increase.

In order to support healthy fathers for the benefit of healthy children and families, we support other tools described in this document.

We encourage you to read our short addendum that includes more information, online at www.mnfathers.org/JPCaddendum2010.pdf

Additionally, we understand that there are important concerns about the efficacy of our family law system to support the healthy, long-term involvement of noncustodial parents. Due, in part, to these concerns, we support the Plan to Conduct a Comprehensive Family Law Study submitted to the Legislature in 2009. We also believe that better data is needed to guide policy reforms in this area, as recommended in the Minnesota Joint Physical Child Custody Presumption Study Group Report.

More broadly, we support a paradigm shift in how we think about families and the court system.

- We believe the court system should move towards a family systems approach and away from focusing exclusively on dyadic parent-child relationships in custody and parenting time cases.
- We believe the court system should move towards a more flexible approach that allows parenting plans to be living documents that are more easily updated as children age and parental relationships change (for example, allowing more expansive parenting time as children grow older) and away from the idea that one court document or intervention will guide families forever.
- We believe our laws, policies, social services and supports should move towards actively strengthening families and children who are going through a traumatic process like parental separation.
- Likewise, we believe that our laws, policies, social services and supports should move towards reducing conflict, not causing it or exacerbating it.

Our process. We went through a year-long process to arrive at our position.

(1) We carefully articulated the values of our organization. We believe that public policy should clearly embrace the role of fathers as assets for healthy child development. We believe that children's wellbeing and the safety of all family members are essential parts of our policy work. We believe that the father-child relationship must be viewed within the context of family systems and that policy solutions should be grounded in solid research where possible.

(2) As an organization that values systems change and evidence based practice, we waited to take a position until receiving the information gathered by the Minnesota Joint Physical Child Custody Presumption Study Group. Our policy committee reviewed and discussed various research studies and articles on joint physical custody as well as the Study Group Report released in January 2009, which includes the voices of parents and professionals. We also considered testimony made at the Legislature in prior years and the history of this issue in Minnesota. In particular, various recent changes to Minnesota laws (child support, parent relocation, and a parenting time presumption) have lessened the importance of the joint physical custody label.

(3) After full discussion and consideration, the MFFN Board of Directors voted unanimously to not endorse a statutory presumption of joint physical custody in Minnesota at this time.

For more information about MFFN, or to contact us, please see our website at www.mnfathers.org.