

James M. Jeffords Center's
Vermont Legislative Research Service



Complete Comments from Attorneys in Response to VLRS Survey (for discussion of the survey, see the full report by visiting

<http://www.uvm.edu/~vlrs/Other/question%20of%20gender%20bias%20in%20family%20law%20in%20vermont.pdf>):

1. The bias is more complicated than your questions allow. If a child is 0 - 6 years old, there is a bias in favor of mother, because the child is so young and the assumption is that a child still nursing or still clinging to their mother should not be removed from their mother without good cause. If the child is much older, the bias is much less pronounced. Once the child gets to be 14 - 17 years old, especially if it is a male child, even if the child refuses to follow a court order that they spend a majority of time with mom, the Court has a bias against forcing the child to spend time with mom, which appears to be a bias against women who want to keep their older children sheltered and in the home. There is also a bias against women when it comes to their being viewed as overly emotional, and a general bias against men assuming that they are less emotionally attached to spending significant time with their children, and that they should be working to support the family and not home with the kids. Thus, a much more complicated issue than a simple bias one way or the other. The bias generally follows the societal bias that mothers are more important when a child is young, and that children should be allowed to leave the nest (and fathers are more inclined to support that) as children get older, and that male children should spend more time with their fathers as they get older. All gender-biases that are fairly well-embedded in our culture, so not surprisingly reflected by the Courts in very subtle ways. The factors considered by the Courts serve to even these biases out by giving importance to a party's ability to foster a relationship with the other party, ability to care for the child's needs, etc., but the importance placed on the "primary care provider" in the statute and case law acts as a legal impediment to fathers attempting to get full custody of young children, because the mother was typically the primary care provider from age 0 - 2, so

showing that the change in the current custodial arrangement is in the best interest of the child, and this is extremely difficult to prove. Also, the mother can work part time, or not at all, and receive child support, which requires the father to put in more hours so he has less time with the child. It is a vicious cycle. The child support system places a bias against joint custody as the mothers would get less money should the fathers have

budget for GALs to be appointed in ALL divorce cases, and family evaluations would be routinely done to actually determine who best to have full custody.

17.

23. This survey makes reference to "joint custody", (should be shared parental rights"), but the Courts have no authority to order shared parenting in Vermont unless the parties agree, so the survey is skewed.
24. This is a poorly constructed survey. It shows a lack of knowledge of Vermont Law. It also seems to trying to elicit biased, rather than objective, responses.
25. These questions assume an outcome. For example, "All things being equal between a mother and father who each want sole custody of their child(ren) after a divorce, how