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Judge Brent Hall had some stern words of advice for the young couple seated before him at Hopkins County Family Court in Madisonville, Ky. Jordan Pyles and Ashlyn Harrell had come to make some small adjustments to a temporary custody arrangement for their 4-year-old daughter, but on this March afternoon in 2018 what preoccupied them was their upcoming trial in June. Pyles, a 25-year-old project manager at a steel manufacturing company, and Harrell, a 22-year-old full-time mom, were both hoping to win sole custody.

“I care about your child because I care about kids,” Hall said of the trial, which he would also be presiding over, “but I’m going in blind, and you are going to have a very limited period of time to tell me and try to get something to click in my mind that makes me see things your way. ... And I’m probably not going to see it your way, either one of your ways.”

At that point in Kentucky, as in most states, in a contested custody case, one parent typically became the main custodian and the other was granted a certain amount of visitation. Listening to Judge Hall, Jordan and Ashlyn were each worried that the other parent would be awarded custody. Ashlyn was additionally concerned that during their contentious year-long custody battle they had spent so much time painting each other as a bad parent that the court would take their daughter and put her into foster care.

Jordan and Ashlyn never married. Their relationship had floundered even before Ann, who is identified in this story by her middle name, was born. Ashlyn had been prepared to raise the child on her own, but from the beginning, Jordan had embraced fatherhood and sought to be an equally

active part of Ann's life. Ever since, Jordan and Ashlyn had been on an exhausting emotional and legal roller coaster.

With Hall's words echoing in his mind, Jordan decided he needed to convince Ashlyn to consider another option. Within weeks, the state legislature was expected to pass a shared-parenting law mandating that, except in certain situations, 50-50 parenting time would be the presumptive arrangement for permanent custody orders. If so, it looked to Jordan like the outcome was basically already decided, in which case there would be no point to sitting through a heated trial.

Cultural and legal norms in favor of 50-50 parenting — in which children spend equal time with both parents — have long existed in countries such as Sweden and Belgium. In the United States, over the past 25 years, there has been a broad movement by families and courts to give divorced and separated fathers more time with their children and to encourage less traditionally gendered parenting. But while joint legal custody, which involves shared decision-making about schooling, location, religion and health, is the norm, a 50-50 shared parenting outcome is still the exception, according to Michael Mosberg, past chair of the American Bar Association Family Law Section.

Kentucky's 50-50 custody legislation — which did end up passing and took effect in July 2018 — was the first of its kind in the country to make equal parenting not just up to a judge's discretion but the standard outcome. In 2021, Arkansas followed suit. Additional laws pushing for more equal parenting time are under consideration in states as politically diverse as New York, Michigan and South Carolina. Spearheading this drive is the National Parents Organization, a group with roots in the fathers' rights movement that is now focused on children's rights and parental equality. In Kentucky, Matt Hale, a

construction company salesman who believed his own kids benefited from a 50-50 custody arrangement, led the charge for the shared-parenting law on behalf of the local NPO branch.

Jordan favored the law and had engaged in activism to support it; Ashlyn didn't have a strong opinion regarding the legislation, but she questioned equal parenting in her own case. For years, she'd worried about the impact on Ann of traveling back-and-forth between homes, of losing the strong mother-child relationship that she had always considered so important to a child's sense of stability, and even about her daughter's well-being in Jordan's care.

But after that March afternoon at the courthouse, Ashlyn began to wonder if she was staking too much on a battle she wasn't assured of winning. At one of their regular pickups soon after the March court date, Jordan broached the idea of compromising on 50-50 themselves, and Ashlyn confessed that she'd been thinking about it too. Shortly afterward, following more discussions with family, she decided that going to trial wasn't worth the potential heartache.

Jordan and Ashlyn met with lawyers to formalize a plan for their daughter to go between Mom and Dad's place every other week, except for one night. The holidays would be evenly split. Jordan would continue to pay child support because he had more income, and he didn't want that to get in the way of an agreement.

But even as they arrived at a final answer, they were worried, Ashlyn especially. After all that time as enemies — including a troubling allegation that had left deep emotional scars — she wondered: Could they manage as co-parents? Most important, would the agreement end up serving the best interests of Ann? As the push for equal-parenting laws continued to spread, the Kentucky law — and the experiences of

parents like Jordan and Ashlyn — was about to become a potential bellwether for custody arrangements across the nation.





LEFT: Ann with her father, Jordan Pyles. RIGHT: Ann with her mother, Ashlyn Harrell. Pyles and Harrell share 50-50 custody of Ann.

Throughout history, the legal system has attempted different approaches to dealing with the emotional, cultural and legal challenges of child custody. When the United States was founded, children were considered their fathers' property, and so fathers automatically acquired custody, though there were fewer divorces back then. That presumption existed until the 1850s, when mothers became favored instead, especially in a child's "tender years" because they were thought to be the natural caregivers.

This practice continued for almost a century, until the 1970s, when favoring the mother came to be seen as gender discrimination, an outgrowth of the feminist movement for equal treatment. Courts adopted a more gender-neutral frame, that custody should be decided in "the best interest of the child" instead. But almost immediately, legal scholars began arguing that the "best interest" standard is subjective, with judges bringing their personal beliefs around child rearing to the bench. The cultural politics can become even more complicated in states like Kentucky, where family court judges are elected. "There is good reason to be offended by the breadth of power exercised by a trial court judge in the resolution of custody disputes," Robert Mnookin, a Harvard Law School professor, wrote in a 1975 article.

According to some legal scholars, this current system incentivizes parents to fight, both because it usually sets up a winner — a primary custodial parent — and provides the financial incentive of child support. The amount of additional time a parent spends caring for a child, the more child support they're entitled to, and critics argue that the money sometimes interferes with parents' ability to consider the welfare of the child first. But this system also has a purpose; it was meant to help address an imbalance

that has long existed in American families, that fathers typically are the breadwinners while mothers sacrifice careers and earning potential to be the primary caregivers. The trend toward two-income households with more but not completely equal co-parenting, according to a 2014 follow-up article by Mnookin, provides “fuel for both sides of the gender wars that plague divorce policy.”

Over the past 25 years, there have been other efforts to even out these gender roles. Each state has a list of gender-neutral factors that judges are supposed to consider when making a custody decision, including each parent’s preference as well as the child’s. Many states have laws stating a preference for both parents to have substantial time with their children. Child support payments have been reduced, and long-term alimony has fallen out of favor. In the past decade, states have implemented “friendly parent” statutes to discourage any parent from trying to limit contact with the other parent by threatening to remove their status as the primary caregiver.

Despite these efforts, mothers still usually get the kids. According to 2018 Census figures, mothers are custodial parents 79.9 percent of the time. Because couples go to court only around 10 percent of the time, the Pew Research Center says it isn’t clear that gender bias by the courts is the reason. Rather, it could be that fathers are not asking for primary or joint physical custody, perhaps because of their perception of how the courts will treat them or societal beliefs about who should be the primary parent.

Jordan, however, was not one of those fathers content to allow the mother of his child to be the main caregiver. He grew up in the suburban working-class town of Hopkinsville, Ky., where his parents owned businesses together, including a restaurant and car dealerships. “My parents were always together, and they raised us as a team, so I couldn’t fathom anything different,” he says. Jordan imagined a

traditional life for himself: going to college, getting married once he'd established a career and having a large family. His senior year at Hopkins County Central High School, in search of a date to the prom, he noticed a blond, bubbly freshman in one of his classes.

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Ashlyn, whose last name was Locke back then, was flattered by the attention from an upperclassman — a football player, no less. She grew up with her mom and grandma in nearby Madisonville, and though she was close to her father when she was young, he disappeared for a long period due to personal problems and the relationship never fully recovered. Ashlyn, still far from graduation, didn't have as clear a picture of what she was looking for in terms of career or family. She just knew the importance of the strong maternal figures in her life.

The relationship was meant to be casual since Jordan was set to go off to college the next year. But the summer after his senior year of high school, Jordan decided to attend community college while working at a sporting goods store, partially to remain close to Ashlyn. Ashlyn was flattered by his dedication. She imagined that one day they would get married. Within a few months, however, their early chemistry faded, and they ended up bickering constantly. Jordan thought Ashlyn acted immaturely, and Ashlyn believed Jordan's age made him feel like he had the right to tell her what to do. Despite their problems, they stuck it out for more than two years. On a vacation together in Panama City, Fla., they were on the verge of breaking up when they got some shocking news: Ashlyn was pregnant.

Even though she was just 17 and a child was in neither of their plans, they didn't consider an abortion. Jordan wanted to try to make the relationship work. Ashlyn felt firmly that

she had to move on and be a parent alone. “Being pregnant, it was a very scary time to break up, but I couldn’t stay in a relationship that made me unhappy.”

Her family was supportive of her decision. The plan was for her to move into her grandmother’s basement, get help with raising her newborn from her grandmother and mother, and eventually pursue a career. She thought Jordan would want the same arrangement as her father had: seeing the baby every other weekend. But Jordan immediately balked at that idea. His plan was to be equally involved in child rearing.



Ann watches her father prepare dinner at home with other members of their family.

“I didn’t know anything else existed other than 50-50,” Jordan says. “But pretty soon I figured out I’m living in a world where the norm is every other weekend. How did we come up with this idea?”

When Ashlyn was still a few months away from giving birth, Jordan consulted a

lawyer. His attorney warned him he was unlikely to win 50-50 custody. It wasn't the norm in the courtrooms she'd been in. If they went to court, she said, they would each be trying to get primary custody, and Ashlyn would win. To increase his chances, the attorney asked that he get a paternity test, start paying child support and keep a regular account of when he saw his daughter.

When Ann was born in February 2014, Jordan respected Ashlyn's wish that he not be in the room. He anxiously paced outside, waiting for news, and then gave mother and daughter time to bond alone before he went in to see them. His presence stressed Ashlyn out, though she knew it was only fair for him to be there. The resentments surrounding the breakup still felt fresh, so she pulled away her arm when he tried to comfort her, and she left his name off the birth certificate. Ashlyn hoped he would eventually accept his role as a secondary parent.

"I was just so angry at him all the time," she says. "I kind of had a picture in my mind of like, maybe he'll just go away, even though obviously that would never happen."

"I didn't know anything else existed other than 50-50," Jordan Pyles says. "But pretty soon I figured out I'm living in a world where the norm is every other weekend."

Jordan only became more committed to establishing his place in Ann's life. He immediately asked for a DNA test to establish his paternity, as he was instructed by the lawyer. He insisted, without Ashlyn's asking, that he pay child support. He tried to play the part of father, modeling his own dad. He got up early in the morning, read the news and found a higher-paying job as a teller at a bank, a big step up from the sports store. Even as he settled down in Henderson, 40 minutes north of Madisonville, with his new girlfriend, Dalas, he drove every other day to spend a couple of hours holding and feeding his daughter.

He kept careful notes on how long he was there and what he did.

Ashlyn had mixed feelings about the arrangement. She felt pressured into these meetings because Jordan had brought up that he'd met with a lawyer, and she was nervous about being taken to court. She was afraid that Jordan was becoming too clingy, and sometimes she'd ask him to space out his visits more. But she was also charmed by how much he wanted to be with his daughter. Seeing him with Ann was a sweet contrast to the relationship she had with her father.

"I've always kind of felt like Jordan was trying to be more of a mom, if that makes sense," Ashlyn says. "He was always the one telling me how things were going to go. And that was the basis of all of our arguments because he was so headstrong."

As time passed, she made a fragile peace with him keeping Ann overnight. Ashlyn knew he was serious about Dalas, and she trusted her to help him out. By this time, she was also dating her future husband, Jonathan. About a year after Ann was born, Ashlyn and Jordan settled on a plan. He would have her every other weekend and some weeknights. It was about a 35-65 time split. For the most part, the routine went smoothly. But at times, it was hard for Ashlyn to give up Ann. She didn't feel completely committed to Jordan's involvement and felt coerced into the arrangement.

"I felt like I absolutely had to do this, or it was going to be a court thing," Ashlyn says.



Harrell baits a fish hook with Ann in Madisonville, Ky., in June.

Social scientists are divided over whether creating a shared-parenting norm is beneficial for families. According to Linda Nielsen, a professor of adolescent and educational psychology in the Department of Education at Wake Forest University, joint physical custody means that children have more emotional resources at their disposal. It also decreases the sense of loss they experience because of the breakup of their parents. In an analysis of 60 studies performed on children in shared-parenting situations in the past 40 years, Nielsen found worse emotional, physical and behavioral outcomes in children who lived mostly with their mothers than in those who lived with their fathers at least 35 percent of the time. Shared parenting was beneficial, she was surprised to find, even when the parents reported a high degree of conflict.

Critics say that most of these studies don't explain how parents arrived at a shared-parenting arrangement, however — a

crucial data point. Anja Steinbach, a sociology professor at the University of Duisburg-Essen in Germany, looked at a survey of teenagers from Europe and North America and found that while those in joint physical custody arrangements generally reported more life satisfaction, it wasn't because of the arrangement itself. Rather, it seemed to be the characteristics of families who opted for shared parenting. The parents likely both had jobs and had chosen the arrangement because they experienced less interpersonal conflict and had previously shared child-care duties. These couples likely made the decision to do shared parenting on their own or through mediation. The 10 percent of custody cases that go to court are usually the most problematic. The research so far doesn't say enough about those kinds of cases to recommend shared parenting for them too, Steinbach says.

Christine Adams, a child psychiatrist in Louisville who often treats children post-divorce, says that although children may not always behaviorally act out their frustrations with shared parenting in a way that can be documented in a study, they do often suffer from inner turmoil when going back-and-forth. In her clinical experience she has found that children often force themselves to be compliant with their parents and the courts that want them to split time evenly, but they are often privately unhappy. Commonly, Adams says, one parent is a better caregiver than the other. During the marriage this caregiving parent often provides a buffer for the children against the more difficult parent. But in separate homes, children don't have that protection. Additionally, these children often feel rootless, without a single place to call home. To Adams, the ideal is for the child to live with the most caregiving parent, while the other has significant visitation.

“Overburdening the child for the sake of their parents having equal access is irrational,” she says. “This becomes an

overwhelming, inappropriate job for the children.”

An even more significant concern about the new shared-parenting legislation is that it will make courts more likely to ignore abuse concerns, says [Joan Meier](#), director of the National Family Violence Law Center at George Washington University Law School. The Kentucky law has an exception for cases of domestic violence. Victims’ advocates, however, cite scholarship that suggests that even with such exemptions, laws favoring shared parenting undercut courts’ consideration of abuse allegations, precisely because such allegations are seen as interfering with the ultimate goal of shared parenting. Gaining more custody through shared parenting, Meier says, could be a way for an abusive partner to punish an ex-partner for leaving them. It also places children at risk. Victims of domestic violence with financial limitations are the most likely to suffer because they can’t afford to hire lawyers to challenge the new law.

“There are a lot of challenges for women and children who are abused to overcome the incredibly strong gospel, as I put it, of shared parenting,” Meier says. “But when it’s in the statute, and especially when it’s a new change with big fanfare, I think that is rocket fuel that gives courts even more of a sense of: Okay, not only is this what I’m supposed to do; this is what I have to do.”



Ann fishing with a half-sibling.

Ashlyn and Jordan's tense arrangement eventually fell apart because of an allegation that both now believe arose from a misunderstanding. One December day in 2016, when Ann was 2 years old, she made a comment suggesting that Jordan had been touching her private areas. Ashlyn immediately called him to relay what Ann had said. Jordan said he had no idea what Ann was talking about. His daughter was still learning to speak in full sentences, and he was sure Ashlyn had misinterpreted what Ann was saying.

Ashlyn had Ann evaluated by a doctor and social worker, who expressed concern over what Ann had communicated but found no physical signs of abuse. For a few months, the parenting arrangement continued as usual. But the incident was still picking at Ashlyn, so she asked the state Health and Family Services agency to file a petition alleging abuse, requiring that Jordan have no contact with Ann while an investigation

was being conducted. Meanwhile, Ashlyn took action in court to modify their parenting arrangement, claiming domestic violence.

Jordan feared he would never be able to spend time with Ann again, although he was soon allowed to see her with supervision. Because he knew how much was at stake, he initiated a counter-defense in court. He accused Ashlyn of coaching their daughter to make the accusation and gave evidence suggesting that she was an unfit mother who was inconsistent and negligent — by, for example, not bathing Ann frequently enough and failing to provide adequate medical care. Looking back, he realizes it was a desperate move.

“I didn’t really talk to Ashlyn because they were telling me not to talk to her,” he says. “So then we go to court, and it was like a battle to prove my innocence.”

Though neither Jordan nor Ashlyn discussed the legal situation with Ann, the then-3-year-old clearly knew her parents were fighting. Taking phone calls with lawyers was unavoidable when she was in either of their homes. She appeared sullen during pickups and drop-offs.

By the time Ashlyn and Jordan ended up in front of Judge Hall in 2018, Ashlyn had begun to wonder whether she had interpreted Ann correctly. Ann had stopped mentioning anything about abuse. Several other psychological and physical examinations didn’t turn up anything, and Jordan produced evidence that he spent limited time alone with his daughter. A psychologist reassured Ashlyn that children Ann’s age often use words they don’t know the meaning of.

Ashlyn was feeling torn. On one hand, she thought the case had gotten out of control and that the entire system was forcing her to remain entrenched in her position to win

custody. On the other hand, it seemed like she was being punished for fighting for sole custody, even when she worried that her daughter's safety was at risk. Once it looked like the 50-50 law was close to passing, her case seemed even weaker. Agreeing to 50-50 was the best assurance that she could keep her daughter.

“At that point, I felt like I had to agree because I didn't want to take the chance on losing [Ann] completely, so I felt kind of forced,” she says. “I wasn't happy about it at first.”

She was relieved though that the law gave her an out from the endless family strife. This is exactly the emotional off-ramp that the law's proponents believe it offers parents. Advocates claim that the 50-50 law so far has been successful at reducing conflict in families. The year before any equal-parenting laws were passed in Kentucky, beginning July 2016, there were 22,512 cases filed that were categorized as domestic or family-related. That dropped to 19,991 in 2018-19, when the equal-parenting law was fully in place.

“It just speaks to the power of a law to change people's behavior,” says Hale, the author of the first draft of the Kentucky law. “If the laws are just stated in a way that says, ‘You have to for the sake of the well-being of your child get along or share parenting,’ then everyone's behavior has to change.”

“Overburdening the child for the sake of their parents having equal access is irrational,” child psychiatrist Christine Adams says. “This becomes an overwhelming, inappropriate job for the children.”

Advocates of the law argue that it can also help change cultural behavior by codifying a more equitable vision of heterosexual parenting, one wherein both the mother and father share the daily responsibilities of child rearing. Jordan himself sees the law as a path toward a less gendered society. “Why not have this be a springboard?” he asks. “Use the shared parenting to normalize both parents having responsibilities and duties.

And then you almost level the playing field in the professional realm, where you stop using old mentalities when it comes to when you hire a woman versus a man.”

There is a counterargument, however, that shared-parenting laws work best in societies that are already equitable, not as a social engineering tool. Sweden has the highest levels of shared physical custody in the world, and it wasn't as controversial there when courts started recommending it in contested custody cases because equal parenting was something many couples were already practicing. In 1974, Sweden became the first country in the world to replace gender-specific maternity leave with [parental leave](#). It also has free child care and after-school programs. Sweden's female labor participation rate is 80 percent, compared with 68 percent in the United States, according to the Organization for Economic Cooperation and Development. If parents divided the work during the relationship, there was also a larger possibility that they would do the same when they separated. In the United States, where parenting roles are more gendered and women are still often the primary caregivers, a strict 50-50 agreement can create a very different outcome. Jamie Abrams, a University of Louisville family law professor, says that for most American families, the law gives the father a judicial advantage he didn't have in the past because he is positioned to get more caregiving time than he might have had before the dissolution. Mothers, on the other hand, feel like they have more to lose but less room to negotiate. “If there's any lopsidedness to caregiving,” Abrams says, “then primary caregivers will fight an uphill battle because the state has codified the loss of their parenting time, whereas in the past their having provided stable primary caregiving would have been legal leverage.”



Ann plays in the backyard with a half-sibling.

Jordan and Ashlyn's decision to share time with Ann equally wasn't immediately popular with Ashlyn's family. They continued to worry that Jordan might be unsafe, but as Ashlyn expressed to them that she now had serious doubts about the abuse accusation and remained committed to parenting with him, they slowly backed down. Jordan was having a similar shift in mind-set. He realized that Ashlyn had been concerned about her daughter and had a right to investigate the situation, and he no longer believed she had been trying to purposefully alienate him. Many of Ashlyn's and Jordan's friends and family remained skeptical they could make it work, however.

They were shocked when the two of them, with the court case over, were able to move on, not as friends initially but in a businesslike way. Ashlyn and Jordan had little to argue about once they both had a solid schedule with Ann, and they were committed to working together to raise her.

As they arranged drop-offs through text message, sometimes having to switch days or change plans, their communication became cordial, even friendly. Soon, they were exchanging stories about their daughter and asking each other for parenting advice.

Ashlyn was happy to hear Ann's excitement about the fun things she and Jordan did together, like fishing or sledding. Ann's happiness with the new arrangement helped confirm Ashlyn's growing sense that her daughter was safe in Jordan's care. Ashlyn also didn't feel like she was losing her connection to her daughter. As long as Ann was comfortable with the situation, she realized she could make it work too.

"I want what she wants," Ashlyn says. "Ultimately, it was just a matter of time that I had to get used to it and adapt. I came to see it's really not that bad."

Ann is now 7 years old. On a summer Thursday, the family gathered to watch one of her softball games, as they do a couple of times a week. Ashlyn was sick, so was unable to make it. But her mother and grandmother were there in her place. Jordan and Ashlyn's mother cheered on Ann as she went up to bat. At least on the surface, the tensions from the past have calmed, and everyone involved has united as a nontraditional, messy but loving family.

Though Ann had been at her mom's the previous night, she didn't have any bags with her to take to Jordan's afterward because she has a set of everything she needs at both places. That way, both feel equally like home. Ann doesn't seem to remember the period of her life when her parents were in court battling for custody. She says that while going back-and-forth between the homes is time-consuming, each one has a different feeling that she likes in its own way. "One side I like how we get to

go places, and the other side I like how we stay home a lot and just rest.”

Ashlyn and Jordan each have two other children in addition to Ann, and they’re both constantly amazed that co-parenting their daughter has worked out as well as it has. Ashlyn even says she’d prefer 50-50 parenting today without a court mandate. “I literally do think about that all the time. The place that we were in once upon a time and then to where we are now, it’s just totally different,” she says.

The challenge for family courts is being able to tell when situational animosity during a custody dispute is likely to dissipate, as in Ashlyn and Jordan’s case, and when parents’ personal problems are more long-standing and complicated and are likely to affect their children down the line. Those nuances aren’t easy to spot, especially in an already overburdened system. Ashlyn feels lucky that it worked out for her. But she recognizes that in other families, that might not be the case.

“I think 50-50 is great in situations where both parents are good parents and don’t have major problems,” Ashlyn says. “I would say I support it, but for those situations only.”

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