

PERSPECTIVE

ALBANY, NEW YORK

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Joint custody law would benefit kids and society

BY CHRISTOPHER NELSON

It's well established that divorce is difficult on children and that joint custody after divorce can help mitigate the effects of divorce. Children want and deserve two parents, whether those parents live under the same roof or not.

The Census Bureau reports that 63 percent of children who commit suicide are from fatherless homes, the Center for Disease Control reports, that 85 percent of all children that exhibit behavioral disorders come from fatherless homes and the National Principals Association reported that 71 percent of all high school dropouts come from fatherless homes. Other findings show that children in single-parent homes are more likely to use drugs, have sex earlier, have lower grades and com-

► *Christopher Nelson of Clifton Park is a divorced father of two children. He has attempted unsuccessfully for five years to gain joint custody.*

mit crimes.

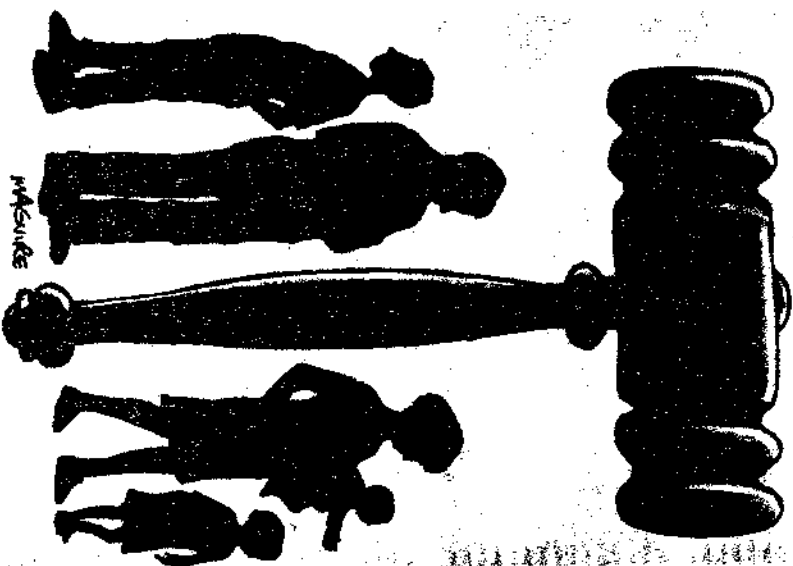
With these figures in mind, 35 states have legislation or case law that helps ensure the benefits of joint custody are realized by children and by society at large. New York is not among them. Assemblyman David S. Stidkman and others have introduced bills in the state Legislature to put a presumption of joint custody into New York law. Stidkman's bill — like laws in other states — gives judges full discretion to award sole custody when it is warranted, but it requires a presumption of joint custody in the absence of compelling evidence that such an arrangement would be injurious to the child.

These bills are tied up in committee wrangling and partisan politics. If the well being of New York's children doesn't move the rest of the Legislature to action, perhaps these financially trying times will. Gov. George Pataki's proposed 2003-2004 budget calls for \$1.17 billion to operate courts of original jurisdiction, including Supreme and

Family courts. Of that, \$459 million is earmarked for Supreme and County courts and another \$59 million is requested for the Law Guardian Program (providing state-paid legal services for children in Supreme Court divorce proceedings or in Family Court).

The budget shows that, historically, 9 percent of Supreme Court filings are contested matrimonial cases, but even so small a percentage of so large a number offers an opportunity for significant savings. A larger opportunity exists in Family Court. The budget requests \$158 million for Family Court and shows 71 percent of Family Court filings as actions for custody or child support. And approximately 20 percent of the Law Guardian Program budget is for custody proceedings. So, how can we reduce these numbers?

After a meteoric rise, divorce rates across the country are leveling off and dropping. In 1997, Kent State University psychologist John Pleasse see **CUSTODY C2** ►



CUSTODY: Legislation would save state millions

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Gaidubaldi and statistician Richard Kahn researched factors that affect divorce rate. They found that states that encourage joint custody after divorce have divorce rates that are decreasing four times faster than in states that favor sole custody. Drawing conclusions from data collected in 19 states, they found that the higher the percentage of joint custody arrangements, the lower the divorce rate became with a 10 percent reduction fairly easy to obtain. In New York, a 10 percent reduction in divorces would translate to \$4.1 million a year in potential savings in the Supreme

Court's budget.

In other research, Frederic and Holly Ifield and J.R. Alexander reported in the *American Journal of Psychiatry* that divorced families with joint custody arrangements are only half as likely to return to court as those with sole custody. If we first reduce the Family Court's caseload by 10 percent to mirror the 10 percent reduction in divorce cases coming out of Supreme Court, we could potentially save \$11.2 million each year. If we then consider that the remaining filings to adjust custody and support orders might be cut in half with presumptive joint custody,

we could save an additional \$50 million a year.

By reducing divorce and custody proceedings, we can directly affect the Law Guardian Program, as well. Children who weren't involved in divorces wouldn't need state-paid guardians at all and less litigation in divorced families would require less time (and less expense) when law guardians are assigned. If this reduced the Law Guardian Program budget by just 10 percent, that would give additional savings of nearly \$6 million.

In total, making presumptive joint custody the rule of law in New York state could result in

savings of more than \$71 million a year in direct court expenses. Finally, children in joint custody situations — assured the influence and guidance of both parents — would be less likely to be arrested, need counseling, seek an abortion, etc., all of which leads to secondary savings in state-sponsored social services.

But if the substantial savings likely to result if New York enacts legislation to ensure joint custody are not persuasive enough, we should consider one other compelling reason to do so: It's the right thing to do for our children.