

CHILD SUPPORT/CUSTODY

The items in this position statement were the second part of the Study: Women and the Law, and although titled Child Support/Custody, this is a misnomer. Child Support was included in the first part of the study position announced above (March, 1981). This position statement was announced June, 1981 and deals with Custody of Children, Insurance, Pensions and Credit.

CHILD SUPPORT/CUSTODY

Statement of Positions

As announced by the State Board, June 1981

CUSTODY OF CHILDREN

In determining the custody of minor children, the League opposes the presumption of joint custody. We believe that the best interests of the child should be the primary consideration; joint custody is, certainly, one option.

The best interests of the child should include the following considerations:

- 1) principal care giver—the parent who has borne the primary responsibility for caring for the child;
- 2) degree of interest shown in the child by each parent; and
- 3) preference of the child (maturity of the child is to be taken into consideration).

INSURANCE

The League of Women Voters believes that gender should be eliminated from the factors that are used to set insurance rates and benefits. The use of gender penalizes women unfairly most often, but in a few cases penalizes men. We do not object to the use of other factors, which are gender-neutral such as age, occupation, personal health and accident history, smoking, etc.

Dependent spouses who lose their insurance coverage through the loss of a wage earner by death or divorce should be able to convert the wage earner's accident and health insurance contracts to their own without increase of premium or loss of coverage.

We also believe that disability insurance should be available to homemakers at reasonable rates, so that they will receive income when they are injured and cannot perform their household duties.

PENSIONS

The League believes that gender should not be used as a criterion in establishing pension rates and benefits. We recognize there are problems with pensions that are created by different typical work patterns of men and women. Changes are needed in eligibility for pensions benefits, and consideration should be given to earlier pension eligibility and shorter vesting periods.

Also, allowance should be made for breaks in service for child-rearing, just as for military service, and accrued pension credits must be protected so that vested interest is not lost.

All pension plans should provide automatically for survivor's benefits. The worker can waive the survivor provision, but the spouse must be notified and give written acceptance of this waiver.

CHILD SUPPORT/CUSTODY
Statement of Positions
As announced by the State Board, June 1981 (continued)

CREDIT

In accordance with our position which holds marriage to be an equal economic partnership with marital property belonging to each spouse, the League believes that credit should be extended to homemakers based on marital property (which includes spouse's income) as well as on a homemaker's own separate property.

Recent League History

LWVNY continues to monitor legislative and regulatory actions for opportunities to advance these positions and to prevent backward steps on goals already accomplished.

Past League History

Custody of Children

Since the 1982 legislative session, the League has lobbied successfully to prevent the passage of legislation that requires a presumption of joint custody in determining custody for minor children. In 1996 and 1997, League testimony opposing the presumption of joint custody (shared parenting) was given at Senate and Assembly sponsored hearings. The League also lobbied successfully to prevent pensions from being excluded from the Equitable Distribution Law.

In the 1994 and 1995 legislative sessions, the League supported legislation to require courts to consider evidence of domestic violence in child custody proceedings. In both years, the bill was passed in the Assembly but not taken up by the Senate. After three years of League lobbying, in 1996 legislation was signed into law requiring state Family Court judges to consider domestic violence as a factor in child custody cases. At the very end of the 2000 session, legislation was introduced changing the term "joint-custody" to "shared custody." This was an effort by the Father's Rights Organization to make the joint custody legislation more "legislator friendly." The League lobbied extensively with Children and Family Committee members and the bill was held late in the committee during that session. No action was taken in the 2001 session.

During the 2002-2003 sessions the League lobbied behind the scenes to hold "joint custody" legislation in the Assembly Children and Families Committee. Joint custody legislation has not been brought up in the State Senate.

Each session that involves an election year, the issue of shared custody becomes controversial legislation. In 2006, the Father's Rights Organization used a familiar tactic to them, of threatening members of the Assembly Children and Families Committee. The League, again working deep behind the scenes to protect the League, was able to hold this legislation in committee by a vote of 15-1. Both democrats and republicans received death threats following their committee vote. It is anticipated that as long as the Father's Rights Organization continues this type of advocacy legislators will be adverse to addressing shared custody.

Insurance, Pensions and Credit

In 1982, the League supported, successfully, the passage of an amendment to the New York Civil Rights Law to include gender in the kinds of discrimination that are prohibited.