

# 民法親權酌定與改定的量化研究

## Empirical Studies on Judicial Decisions of Child Custody According to Civil Code

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The doctrine of the "best interests of the child" is the primary consideration for family court judges in making post-divorce custody decisions. However, a precise understanding of the "best interests" standard remains elusive. As Article 1055-1 of Civil Code requires judges in Taiwan to consider factors such as the age, gender, health condition and the wish of the child, the character, occupation, financial condition and life style of the parents, the judge still has a wide range of discretion to reach the final decision. This project therefore aims to clarify: among the key factors, which ones take top priority in child custody decisions? Do judges in Taiwan generally favor father or mother after considering these factors?

To answer the questions, more than five hundreds of child custody cases are examined and features are labeled, then natural language processing is employed to classify and analyze these decisions to make reliability assessments. Among all cases involving post-divorce child custody, this study focuses on the 41% where both parents wish to receive child custody. The preliminary findings include but not limited to the following:

During the years of 2015-17, about 63% of mothers received sole custody from courts. Only 18% awarded to the father and another 18% for joint custody. Among all the lawsuits, 60% were filed by mother and 40% by father. The mother who was the petitioner has around 69% of chance to receive sole custody. When the father was the petitioner, the respondent mother still has 55% of chance to be awarded sole custody. Statistics show that mothers have much higher chances for sole custody than fathers.

When considering the 13 factors designated by the Civil Code, in cases awarded father sole custody, the top three considerations to the father's advantage are: parent-child relations, parental intentions and abilities, and support system, which is similar to those awarded sole custody to mother. In cases where mother receive sole custody, the mostly mentioned factor in disadvantage of father would be parent-child relations. The findings contradict the common belief that the party of better financial conditions usually receive child custody.

類型	因素	父親有利比例	母親有利比例	父親不利比例	母親不利比例	
92 13項考慮因素		RFFA	RFMA	RFFD	RFMD	
	判給 父親 (RF)	親子感情	85.87%	48.91%	10.87%	48.91%
		意願能力	80.43%	52.17%	4.35%	32.61%
		父母經濟	63.04%	36.96%	5.43%	23.91%
		支持系統	67.39%	30.43%	7.61%	18.48%
		父母生活	42.39%	22.83%	13.04%	48.91%
		主要照顧	47.83%	16.30%	0.00%	8.70%
		子女年齡	39.13%	5.43%	0.00%	13.04%
		人格發展	23.91%	4.35%	0.00%	5.43%
		父母健康	17.39%	5.43%	3.26%	7.61%
		父母職業	14.13%	7.61%	7.61%	10.87%
		子女意願	9.78%	3.26%	1.09%	5.43%
		友善父母	9.78%	3.26%	0.00%	4.35%
父母品行		8.70%	1.09%	3.26%	7.61%	
344 13項考慮因素		RMFA	RMMA	RMFD	RMMD	
	判給 母親 (RM)	親子感情	36.05%	94.48%	63.08%	6.98%
		意願能力	51.16%	81.98%	33.14%	4.07%
		父母經濟	30.00%	61.63%	13.66%	9.88%
		支持系統	38.37%	63.95%	16.86%	3.49%
		父母生活	26.16%	47.09%	38.37%	9.30%
		主要照顧	10.47%	60.47%	9.30%	0.29%
		子女年齡	5.23%	39.53%	7.56%	0.58%
		人格發展	3.20%	42.44%	4.65%	0.29%
		父母健康	10.17%	15.41%	4.36%	1.16%
		父母職業	6.10%	11.34%	11.63%	2.03%
		子女意願	6.40%	8.72%	10.47%	2.33%
		友善父母	2.91%	18.60%	7.56%	0.58%
父母品行		0.87%	4.36%	22.09%	1.45%	
93 13項考慮因素		RBFA	RBMA	RBF D	RBMD	
	判給 雙方 (RB)	親子感情	75.27%	86.02%	32.26%	11.83%
		意願能力	76.34%	74.19%	15.05%	6.45%
		父母經濟	67.74%	61.29%	12.90%	10.75%
		支持系統	53.76%	51.61%	11.83%	12.90%
		父母生活	36.56%	39.78%	18.28%	13.98%
		主要照顧	24.73%	44.09%	2.15%	1.08%
		子女年齡	22.58%	29.03%	2.15%	2.15%
		人格發展	10.75%	18.28%	5.38%	1.08%
		父母健康	16.13%	18.28%	2.15%	1.08%
		父母職業	21.51%	25.81%	4.30%	6.45%
		子女意願	9.68%	7.53%	8.60%	3.23%
		友善父母	7.53%	10.75%	2.15%	2.15%
父母品行		8.60%	3.23%	5.38%	2.15%	

Table 1: Percentage of 13 factors considered in advantage or disadvantage of father or mother

雙方都有意願	提出方為父親		提出方為母親	
	案件數	百分比	案件數	百分比
提出方單獨行使親權	44	19.64%	208	68.20%
相對方單獨行使親權	136	60.71%	48	15.74%
雙方共同行使親權	44	19.64%	49	16.07%
總計	224	100.00%	305	100.00%

Table 2: Custody case results in consideration of whether father or mother is the petitioner