

# Will "Divorce Reform" Help Our Children?

By Richard S. Victor, Esq.

A new movement is on the horizon to do away with the current divorce laws in many states which allow for "no fault" divorce. This new proposed legislation (introduced in several states during the past few months) is designed to make divorce harder by forcing divorcing parents, with minor children, to litigate and prove fault before a divorce can be granted. Some legislators, mindful of public relations, disguise this attempt by calling it "divorce reform". In reality what this is attempting to do is force people to stay married. Their rationalization is based on the belief that divorce causes problems in children and therefore if adults are not allowed to divorce or, if divorce is made very difficult to accomplish, people will stay married and children will be the beneficiaries of this legislation.

On paper this concept may look good. However, as a family law attorney, practicing for over twenty-two years, I can tell you that advocates of doing away with "no fault" and making divorce harder to achieve only creates a more acrimonious and volatile relationship between parents which invariably hurts their children even more.

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"Divorces are not sought by people because "no fault" makes it easier."

*by Richard S. Victor*

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Just think about it. Divorces are not sought by people because "no fault" makes it easier. In fact, divorce is a very difficult remedy sought by one or both adults who have found that because of interpersonal relationship breakdowns or betrayals, abuse, etc., their marriage relationship disintegrated. Divorce is a remedy to that breakdown, not the cause. Proponents of this new "divorce reform" legislation have asked state legislators to pass laws forcing a husband and wife to battle each other in court, to prove that one, or the other, was at fault because of serious misconduct before a divorce can be granted by the court. This would mean that a mother or father would have to hire an attorney, private investigators, etc., to "dig up the dirt" and air the dirty laundry of a family in order to win their case. Invariably, this would require one of the parties, or both, to effectively destroy the other, through the court system, in order to prevail. Once this is accomplished, both parties, if they have minor children, would have to go back to work and mend their differences in order to properly parent their children.

**That is an impossible task!** The costs associated with litigating fault divorces (both emotional and financial) would effectively destroy any trust or civility which otherwise would have occurred between two adults, who must parent the same children. The children will be far greater victims of these "divorce reform" laws because the rules would be that a family has to be destroyed, in open court, before it can move on.

Although these laws reflect and reinforce certain political and religious philosophies regarding the sanctity of marriage, they do little to deal with the reality of the American Family as it exists today.

As much as we may want to, we will never be able to legislate morality. Marriages break down not because the divorce laws are easy but, rather, because of conflicting interpersonal relationships between people who live in a most complicated and difficult society. Adults today face pressures unheard of in generations past. Deciding to divorce, especially when there are young children involved, is never easy. People who make the ultimate decision to divorce, have usually thought long and hard about all of the alternatives available and only choose divorce when no other remedy is palatable in view of the facts and circumstances of an individual's own case.

Instead of making divorce laws harder, which will only line the coffers of divorce lawyers, private investigators, and other individuals, who will be forced to "dig up the dirt" on one spouse or the other, we should use our energies to help families who are going through these emotional conflicts and difficulties which face the American Family today. This may not stop the divorce, which ultimately would be inevitable because of the interpersonal relationships between the adults, but it can help parents going

through the divorce help themselves and their children during the process and for the years which follow the divorce.

As a former Chairperson of the Family Law Section of the State Bar of Michigan, I have been interviewed regarding my opinion on proposed legislation within the State of Michigan, to do away with the "no fault" system. My response is that although I wish we can make everything alright by passing laws to protect the sanctity of marriage and family, I realize that it just is not possible. Proponents of the divorce reform packages being introduced throughout the United States must realize that the answer to these problems cannot be found by punishing adults and children who find themselves in a dysfunctional and bad marriage. The reality of abuse, distrust, betrayals, etc., is unfortunately a human reaction within the human condition. We must assist people in helping them deal with these problems, not punish them and their children when they occur.

It is true that some statistics will show that children of divorce have a higher rate of delinquency, drug use, and emotional disfunction. However, there are no statistics to tell us whether or not those same children, and possibly even more, would suffer the same fate if they were forced to live in a home where abuse, disfunction, emotional conflicts and cruelty exist because their parents were precluded by law from getting a divorce.

I applaud the efforts of conscientious legislators who want to protect children but, these "divorce reform" packages which do away with "no fault" divorce laws is not the answer.