

AlbertMohler.com

NewsNote: A Message from Michigan?

Thursday, February 25, 2010

All laws are intended to have an effect, but one of the perverse rules of politics is that laws often have effects very different than those desired or expected. Beyond this, the operational reality of a law, once passed into statute and interpreted by courts, is very often different than the sponsors of the law had envisioned.

In the case of so-called “no-fault” divorce, however, legislators and governors should have been able to know a disaster when they saw one, but they didn’t. State after state began adopting “no-fault” measures in answer to demands that divorce be made “more humane.”



By the middle of the 1970s, the battle was largely over. States adopted no-fault divorce laws citing various rationales, including the unclogging of courts burdened with contested divorce proceedings. No-fault laws enabled one spouse to seek a divorce, acting unilaterally. These statutes only required that one spouse declare the marriage irretrievably broken.

Previous to this, divorce was considered a matter of far greater social importance and common concern. Marriage was considered the bedrock institution of society and divorce was seen as a subversion of society, as well as the breakup of a marriage. Under this system, divorces required legal cause — some ground recognized in law as constituting an adequate reason for the dissolution of a marriage. A spouse could fight the divorce and contest the grounds offered by the spouse who sued for divorce.

Under no-fault divorce, no ground is necessary. By definition, there is no fault ascribed to either spouse — fault is no longer considered to be of legal or societal importance.

Demanded by those who claimed that no-fault divorce would be more humane, the laws actually allowed two very different (but entirely foreseeable) results, and both are disastrous. The first is the fact that no-fault divorce has allowed millions of men to abandon their families and leave their children and former wives to poverty. The statistics are clear enough — men who divorce their wives and no longer live with their children generally improve their standard of living over the next few years. The family left behind generally has the opposite experience, with children and former wives living at significantly reduced income levels.

The second result is almost the opposite of the first. No-fault divorce has also allowed women to end the marriage unilaterally, usually retaining primary custodial authority over the children. In such situations, men — who are not even charged with any fault by their wives — can find themselves robbed of their own children. No state has yet remedied the unjust assault on fatherhood that no-fault divorce set loose.

In times past, contested divorces may have clogged the courts and entailed acrimony, but can anyone really justify the pain and emotional carnage caused by no-fault divorce laws? Add to these ills the continued cultural subversion of marriage aided and abetted by no-fault divorce. One other angle on this tragedy is often missed — an entire industry has grown up around divorce, with divorces proving very lucrative for many attorneys and legal professionals.

All that is what makes a legislative move in Michigan so interesting. State Senator Michelle McManus has emerged as

the sole sponsor of a bill that would repeal no-fault divorce in that state.

As Eartha Jane Melzer of *The Michigan Messenger* explains, “Since 1972 Michigan’s ‘no fault’ divorce law has required only that one spouse say ‘there has been a breakdown of the marriage relationship to the extent that the objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved.’”

Under McManus’s proposal, specific grounds would have to be both alleged and proved in order for a divorce to be granted.

As expected, many divorce lawyers adamantly oppose the move. Michael A. Robbins, president of the Michigan Chapter of the American Academy of Matrimonial Lawyers, said: “You can’t legislate morality and you can’t force people to stay together if they don’t want to stay together.” Of course, that statement ignores the fact that no-fault laws also “legislate morality” — just in the form of a moral undermining of marriage as an institution. As a matter of fact, most laws are passed for the expressed purpose of “legislating morality.”

Henry Gornbein, former chairperson of the Family Law Council of the State Bar of Michigan, told the paper that the McManus legislation “would be an unmitigated disaster,” adding: “If one party wants out there is a breakdown.”

No-fault divorce laws put the entire society at fault for weakening and injuring the most basic institution of human life and culture. There is plenty of fault to go around on this one.

Observers of Michigan politics argue that Michelle McManus’s bill has little hope of passage. She is running for the office of Michigan’s Secretary of State, and one defender of no-fault divorce simply charged her with pandering to voters.

That seems unlikely. There simply is not enough public opposition to no-fault statutes as yet. If anything, Michelle McManus’s proposed bill may be a sign that a public debate on the effects of no-fault divorce might be taking shape. If so, this can only be for good. Let’s hope that this bill sends the message that at least one state might muster the courage to rethink no-fault divorce.

I am always glad to hear from readers. Write me at mail@albertmohler.com. Follow regular updates on Twitter at www.twitter.com/AlbertMohler.

Eartha Jane Melzer, “[McManus Pushes to End No-Fault Divorce](#),” *The Michigan Messenger*, Monday, February 22, 2010.

Darrell Dawsey, “[A War on Divorce?](#),” The Detroit Blog, Time.com, posted Wednesday, February 24, 2010.

