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Bill makes divorce less divisive; Changes to the Family Law Act do a good job of addressing the social woes that accompany marriage breakdown

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By David Quist

The government of British Columbia has just introduced changes to the Family Law Act, which will modernize many aspects of what happens when, sadly, families fall apart. Will they go to court? How will courts address divorcing parents? These are some of the questions the act reviews. Addressing the social woes that impact our society due to the breakdown of marriage isn't easy. While the document is not perfect, overall the results are good. Now it is incumbent on governments to continue the process - family policy cannot remain static in the face of ongoing changes in family life.

For starters, it is imperative that our elected officials attempt to address the many issues contained in the act, rather than allowing a single unelected, unaccountable judge to make a precedential ruling that will impact all British Columbians.

Moving on to the content of the act, it states on numerous occasions that the purpose and intent is to seek what is in the "best interest of the child." This is critical. A vast body of social science research tells us that children do best when raised by their married, biological mom and dad. Of course, for a variety of reasons, that is not always possible. Still, we cannot afford to fail our children and their best interests, even in family breakdown.

While it is not a right to have a child, it is the right of the child to be served in their best interests. Children are not commodities, as they have unfortunately often been treated under the current Family Law Act. This cannot continue if we truly do look out for their best interest.

One of the biggest problems in family law has been the Family Court process used to date, that pits one parent against the other - may the one with the deepest pockets win. Time and time again, we have seen that in fact, no one wins. The lawyers' bills must be paid, rifts run deep between ex-spouses and children have all too often been used as pawns between mom and dad, with poor results. The changes to the act, which attempt to move to more positive dispute resolution processes through methods such as non-court settlements, mediation and arbitration, are beneficial to all.

While the act is a step in the right direction, government cannot stop looking at the important social policies contained within this act. Essentially, this act deals with situations resulting from disruptions to the family unit. However, what if we could reduce the number of people that actually need to open the pages of this act by reducing family breakdown where it starts?

Fewer than 10 per cent of marital breakdowns occur in high risk marriages - those relationships that put one or both spouses at risk due to some form of abuse (alcohol, drug, sexual, physical, emotional, mental). Achieving a lower divorce rate would be an even greater success.

Research by the Institute of Marriage and Family Canada quantifies what most of us already know intuitively - that family finances are the No. 1 concern throughout our family life, whether we are just starting our marriage, beginning our family, or reaching retirement years.

The provincial government can take steps toward enhancing financial support for families. Options surrounding family income splitting, child and educational tax credits and the lowering of the overall tax burden are just some examples.

We attempt to teach our high school youth about sex education, but we currently do little to teach them about relationships, especially the most important relationship of all: marriage. We should include research regarding the differences between marriage and living together (cohabitation). Marriage offers substantial benefits simply not present in cohabitation.

Government could provide incentives for couples that want to be married and participate in a pre-marriage counselling program before the big day.

Statistically, couples that participate in such sessions have a much better success rate and longevity in their marriages, resulting in stronger families and a stronger society around us.

The B.C. government should be commended for taking the time to work on this act in order to get it right - and it has in many ways.

The act has far reaching implications and will require ongoing due diligence to ensure that it continues to do what is in the best interests of the child, particularly as medical technology and legal challenges change the face of the social policy world around us. For this reason, government's approach to family policy must be subject to an ongoing review.

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