

THE BROOKINGS INSTITUTION
SECOND CHANCES: A PROPOSAL
TO REDUCE UNNECESSARY DIVORCE

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P R O C E E D I N G S

MR. GALSTON: Well, I would love to be able to call this meeting to order so that we can bend, if not break tradition and actually get started more or less on time. So if people who are coming in could take their seats, we will get started.

Well, let me begin by introducing myself. I'm Bill Galston, a senior fellow in Government Studies here at the Brookings Institution, and on behalf of Brookings and the Heritage Foundation, who are jointly hosting this event, I want to welcome you to what I think will be -- what I know will be a deeply informed and suspect strongly will be a spirited discussion of a newly released report entitled, "Second Chances: A Proposal to Reduce Unnecessary Divorce."

Those of you who are bright and early in the morning readers of the *Washington Post* will have noticed running down the left-hand column of the op-ed page, an op-ed by the two authors of the report, Bill Doherty and Leah Sears, laying out some of the basics, and this will give us an opportunity to go well beneath the surface and to explore the issues in considerable detail. The decision to get married, the decision to have children, the decision to terminate a marriage are among the most intimate, personal, and consequential decisions that human beings can make, but they also take place within a dense framework of law, and it is that tense relationship between the intimate and personal on the one hand, and the public on the other, that generates the extraordinary issues and difficulties that are laid out in this report and that we'll be discussing this morning.

These are issues that ask us to consider not only our good intentions, assuming that they are good, but also the consequences of those intentions, unintended as well as intended.

For the connoisseurs of this issue, I invite you to read the signing statement of the nation's first no-fault divorce law. It took place in California. A governor, a divorced man himself, by the name of Ronald Reagan, and it is very interesting to look at that signing statement and to see what worked out as expected and what did not.

The topic of the discussion this morning is an effort to rethink some of the issues that we've taken for granted now for more than 40 years and to offer a modest, but quite possibly consequential emendation of long-held tenants of American Family Law. And to help us go through these reflections, we have an all-star cast, starting with the two authors. Bill Doherty is a professor in the College of Education and Human Development at the University of Minnesota and past president of the National Council on Family Relations.

I give brief introductions, you have the full bios in your packets to see the full record of the distinguished careers of everybody on the podium. Leah Ward Sears was the youngest woman and first -- youngest person and first woman to serve as a Superior Court judge in Fulton County, Georgia. When she was appointed to the Supreme Court of Georgia, she became the first woman and youngest person ever to serve on that court, and in July of 2005, she became the first woman to serve as chief justice of the Supreme Court of Georgia. She retired from that position in 2009.

In addition to being a distinguished attorney in private practice, she has been very, very, active on family law issues. She was a visiting professor in contemporary issues in family law at the University of Georgia Law School, and is now the William Thomas Sears Distinguished Fellow in Family Law at the Institute for American Values.

To my immediate right is Robert Rector, who is a Heritage Foundation senior research fellow. At Heritage, he concentrates on a wide range of issues relating to welfare reform, family breakdown, and various American social ills and pathologies. He has written very widely on these issues, has testified more times than I can count before Congress, and is one of the most recognized voices on these issues in your nation's capital.

And to Robert's right, is Theodora Ooms. She is now serving as a senior consultant to the National Healthy Marriage Resource Center. She spent eight years as a senior policy analyst at the Center for Law and Social Policy, where she worked on

couples and marriage policy. She has edited two books herself and authorized numerous -- and authored numerous publications.

Many of you have probably participated in the long series of so-called "family policy seminars" that the Family Impact Seminar put on over a period of many, many years. And Theodora, as well, is one of the most widely recognized, respected voices on these issues in Washington, D.C.

As to the format of this event, its simplicity itself. Each of the two -- both of the two report writers, starting with Bill Doherty, will have 10 minutes each to present different aspects of the report. The two commentators will have between 7 and 10 minutes to present their reflections on the report. At my discretion, I may provoke some crosstalk in the panel, although I suspect my provocation may not be necessary. After which time, there will be plenty of time available for questions from all of you. So, without further ado, Bill Doherty.

MR. DOHERTY: Okay, good morning everyone. I flew in from Minnesota and said to the cab driver, boy, nice weather here. He said, it's a cold spell, so for me this is a perfect spell.

What I'm going to do is to talk about the research case for the Second Chances proposal. And we've introduced this term, "unnecessary divorce," which, of course, implies that some divorces are necessary. And what I want to talk about are some of the assumptions, cultural and for a while academic assumptions behind divorce that have driven the status quo around this topic.

The first is -- the first belief is that most divorces occur in marriages that are marked by bitter conflict over many years and that are thus best ended. The research in the last 10 or 15 years has put the lie to that notion. We now have a generation of studies that have been able to follow people during their marriage, through the divorce, and afterwards. And what those studies have been showing is that the average divorce, depending on the study, half to two-thirds of divorces with children, that's been the main area of focus of these studies, the average divorce occurs in a

marriage that two years before was an average marriage in terms of happiness, reasonably low levels of conflict, average marital satisfaction scores, or happiness scores, and something happened within a couple year period that propelled them to divorce.

It's less than half, depending on the study, a third to a half of those marriages, again with children, which is our main emphasis here, were those of bitter, long-term, going downhill, poisonous environment for everyone in the household. Related to that is the research that's showing that the majority of divorces that are occurring now, with children and not, are for what I call the soft reasons for divorce.

The hard reasons, the research showed, if you go back a generation, were chronic infidelity, untreated alcoholism, abuse, the kinds of reasons that make it almost impossible for somebody to be healthy in that environment. But there's been a shift towards what I call the soft reasons. In our own research, growing apart and lack of communication are the two main reasons, the two top rated reasons for parents with minor children to get divorced.

Now, this can be a source of pain for people, but these are what I call the soft reasons that are very much related to contemporary high expectations, and they usually involve both people having pretty equal contribution to the lack of growing together and communication.

And the third part of this first piece of the research is that the new research is showing that children are most harmed by the divorces to those average marriages and the soft reasons for divorce.

The children are actually being reasonably well taken care of in those relationships and the bottom falls out. Children in the toxic war zone marriages, when those break up, the children do better. But we used to think, and this is again part of the myth, we used to think that most divorces were the toxic war. Now, some of them can get that way, we'll be talking about that in a minute, once they get into the divorce process. But if you actually look at these marriages prior -- in the years prior to, the

divorces that look the most preventable, the soft reasons, not the abusive marriages, the ones that had a reasonably good track record for a long time, those look to be the most preventable divorces and those are the ones that the children are the most harmed by when they break up.

So the first is that -- is the research belying some traditional notions of what the average divorce is. The second has to do with this whole new body of research on the ongoing effects of instability in the lives of children. So we used to think that if the parents were civilized about this, if they did well, they got along well, put the kids needs first, the good divorce, that those children were going to do fine.

Now, they do better, of course, than if the children are hostile and they put the kids in the middle, but there's this new research that's showing the independent effect of multiple transitions in the lives of children. The adults move on in their lives, they have new boyfriends and girlfriends, they have new cohabiting partners, they have new spouses, and they have higher break-up rates of all of those relationships. The children go through other kids coming in and out of their lives. You know, it's hard enough to get along with siblings, let alone stepsiblings. And so the research in the last decade has been showing the cumulative effect of transitions, even when the parents are doing well together with each other, okay.

So that second principle -- second notion that I think we can put the lie to is that the kids are going to be fine if the adults just cooperate. Obviously they have to cooperate. But the cumulative effects of these transitions -- because what happens is, the trajectory of adults and children begin to diverge. Children, by large, want stability and once a marriage breaks up, adults are usually looking for new relationships, which, unfortunately, early on, tend not to be stable.

The third issue is the notion that when people file for divorce -- the belief that once people file, game over, gets them out of their marital misery and goes through a divorce. And the whole court system tends to be set up to expedite divorces and to minimize conflict. I'm certainly for minimizing conflict.

The expediting is based on the notion it's over once they file, and the research that my colleagues Brian Willoughby and Judge Bruce Peterson published recently, that's one of the basis of this report, again put the lie to that notion. Judge Peterson of the Family Court in Hennepin County approached me several years ago saying he met with a number of couples who seemed to be getting along so darn well divorcing, he wondered why they weren't still married, that to do a divorce really well takes high levels of communication, respect, and sensitivity.

And he was wondering sometimes if he and his wife, who are happily married, could divorce well. And he asked me, was there any research on ambivalence about going through the divorce or interests in reconciliation among people who had already filed. There was no research, so we did it. And we gathered research on 2,500 divorcing parents in Hennepin County through a very nice sample, because they had to take classes and we got them at the end of the classes, so it was a very good sample.

And we found that at the individual parent level, 30 percent of the parents said yes or maybe to the question would you seriously consider reconciliation services if those were made available by the court? And the question about whether you thought your marriage could be saved, 25 percent said they thought their marriage could still be saved, even at this point. When we put them together as couples, when we matched them as couples, 10 percent of the couples in the divorce process independently surveyed, both spouses said that they would seriously consider reconciliation services. And these were people one step away from the divorce decree. When we started to ask about where they were in that process, the earlier you go -- the more upstream you go from filing, the higher the interest in the possibility of reconciliation. So this was quite stunning, these were quite stunning findings.

They're being replicated in Georgia, by the way, it's not just a Minnesota fluke. And we're now doing research in divorce lawyers' offices, and it's about 50 percent of people who walk in divorce lawyers' offices who think they're marriage can still be saved. So, we have, I believe, put the lie to a third assumption, that would say that we

ought not to reform divorce laws because it's a done deal once people file for divorce.

So implications then, that for this report that you're going to be hearing about from Justice Sears, our proposals, is that there are many unnecessary, preventable, divorces. So hear me and hear us, there are necessary divorces. We're not out to end divorce in this country. We're not out, in this modest proposal, to abolish no-fault divorce. We're really suggesting some modest reforms because we believe that there are preventable divorces, and that children are most harmed by those divorces that are preventable.

And that secondly, in terms of implications, the state has an interest in this. The state's primary interest here is the welfare of children who have no say in this, who have no say in the subsequent transitions their parents go through. And we believe that divorce reform, although it has brought some good things over the last 40 years or so, there are some big blind spots and some big holes that we need to fill, and that's what we're proposing. Thank you.

MR. GALSON: Well, Bill, thank you for that very concise and lucid summary of the research base of the proposal. And now for the proposal itself, Justice Sears.

MS. SEARS: Oh, thank you very much, and it's good to be here. What I'm going to do, and I think you did a very good job, Bill, of concisely going through the basis of the research, and I will try to be concise when I outline the list of our recommendations, to give people who desire divorces a second chance through this Second Chances Act. But before I get started on the recommendations, I want to echo what Bill said. This is a modest proposal, not designed to in any way get -- end divorce or end no-fault, and these are to potentially save unnecessary divorces for the benefit of our children, because I am asked that over and over again. It is a modest proposal. So here is the list of recommendations for giving married couples a second chance.

Number one, it would involve extending the waiting period in which to get a divorce. There is a considerable variation among the states today, in the time period

that couples have to wait in order to finalize their divorces. These waiting periods range from zero to two years. I mean, I know in my state it's 30 days. We are recommending in this report that states adopt at least a one year from the date of filing for divorce waiting period before the divorce becomes final.

Now, you may be asking, why one year? While some states with very low divorce rates have a two-year waiting period, Massachusetts is one of those states, and while we believe that that's probably a good idea, we believe that as a general and threshold rule, a minimum of one year is really needed to give couples a chance to decide if they really, really want to go through with their divorce. Now, some might suggest that any amount of time is unnecessary and unfair and why not let people just go ahead and decide for themselves what it is that they want to do. Here's the reason why that doesn't work out so well, and I can tell you it doesn't work out so well from my 23 years as I sit as a judge in the courts of Georgia.

First, the law carries meaning about what it is we actually value as a society. That is to say a family stability of the wellbeing of our children are really the high public values that we say they are, then states should adopt rules that reflect the same, such as requiring a cooling off period long enough for both spouses to consider other options.

Furthermore, divorces are the severing of contractual agreements. If it's not unusual for contract law to provide for a waiting period to protect consumers from decisions that they have made in haste in a sales pitch, i.e., if they're buying a car or something, then why is it not unreasonable for our public policy to dictate at least the same, if not more, in terms of getting a divorce and severing that contract?

Second, the decision to divorce often comes at the most intensely emotional period of a person or a couple's life. They may feel betrayed by something that the spouse did, they may be in the throes of another romantic relationship, they have health or job concerns, or deeply depressed. People in hot states of emotion are prone to make very, very costly decisions, particularly when they are just simply not equipped

with the tools or the information. And with a mandatory waiting period, chances are a lot higher that the outcome will be better if the couple is afforded more time, along with the tools during that time in which to make a much more informed decision.

Third, and I can attest to this, the law moves couples rapidly towards divorce, more than perhaps they had initially intended or expected. Very short waiting periods, combined with little or no help for exiting the divorce superhighway, is what we call it, leaves very little possibility for either spouse to consider reconciliation.

You know, some spouses just use filing for divorce as a threat to get the other spouse's attention, but before they know it, they're caught up in the turbulence of the divorce process, and they're propelled toward a divorce that they really didn't -- weren't sure that they really wanted. Even if one spouse is determined not to reconcile, however, there are good reasons to think that the pace of divorce should actually follow the spouse who is less willing to divorce. Pushing a reluctant spouse to move too quickly can increase chances of conflict and litigation during the divorce, can exacerbate post-divorce conflict, and can really hurt hot button issues such as children and money and time.

Now, of course, domestic violence situations are special, and they are a special concern to the entire -- to all of us, and to the entire judiciary, and they must and can be handled with the waiver of the waiting period in those cases in which the immediate threat to a spouse or children is present. So, we're not ignoring those kinds of situations where divorce is necessary.

Lastly, the public generally thinks that making divorces involving children should be somewhat harder to get. The polling has consistently shown that Americans favor more speed bumps, if you will, on the road to divorce for couples who have children. You could just look at New York and New York's recent example. When they revamped their divorce laws, there was very little push back when the six-month waiting period was instituted as part of the divorce reform in New York. Now, we are also as part of this Second Chances Act proposing requiring the spouse moving for divorce to give

the other spouse pre-filing notice. Before they file for divorce, they must notify the other spouse that they're going to move for divorce. Filing a legal action with the court, while an important option, is not really likely to be a good pathway to initiate marital reconciliation. And so to create an alternative pathway, we're proposing this early warning notification process.

The idea here is that a spouse who wants to raise serious concerns, but also preserve the marriage, will have a structured process using a legally recognized document that's in this material that we're handing out to inform his or her partner that the divorce is a clear risk unless they both work on solving their problems. Now, the interesting thing is, this document can substitute for divorce filing as one way to initiate the one-year waiting period.

Who might use such an early notification and prevention letter? Well, some spouses just want to get the other spouse's attention. There's love there, there's commitment there, they just really want to work on problems, and that would be very handy in a case like that. Now, although some divorces will likely be prevented with waiting periods and the early notification device, we also believe that more can be prevented if couples can learn new skills and connect with resources in the community to improve their marriages.

That's why the proposed new statute also has a provision for education and reconciliation services, or counseling, or reconciliation education. Now, given that we already have thousands of therapists who do marriage counseling in every state, some might ask why, you know, we already have this, is what we're proposing different? Yes, it is. We feel that many therapists practicing marriage counseling in this country today are not really adequately trained for this kind of difficult therapy.

Although an estimated 80 percent of therapists in private practice report they do at least some marital therapy, most mental health therapists don't really have a degree or re-certification programs, and don't have specific training in marriage therapy.

Also, it's an open secret among experienced practitioners of marriage

counseling that even those who do very, very good individual counseling could be poor marriage counselors. The result is that such therapists fail to treat often conflicted or demoralized couples. Moreover, today's therapists typically feel that they should hold a neutral stance towards whether or not the marriage survives or ends in divorce.

Divorcing or staying married are seen as equally valid outcomes, much as one might view whether you stay in a job or move into a different job. Hence, some counselors do not work vigorously to restore marriages, and that's what we'd like to see.

We further recommend that states require completion of a parent education course before either spouse files for divorce, specifically, before any legal divorce work is filed. Both parties would have to take a course that would teach communication and conflict resolution skills, as well as offer reconciliation information and services. We also believe that states should provide couples with marriage education options that could help prevent divorce down the road.

Now, marriage education programs have been used for decades in the United States, and they have a demonstrated track record in helping to improve and save marriages. Marriage education aims to equip people with knowledge, skills, attitudes, everything hopefully necessary to be a success in a marriage.

And the fifth and final piece of our modest proposal concerns the creation of Centers of Excellence to develop state capacity, to help couples at risk. These centers would focus on providing public information and training professionals who would work with couples considering divorce. They could also promote the best marriage therapy models and best marriage education programs currently available.

State universities obviously are logical places to house these centers, although a stable nonprofit agency could be a good choice, as well. Some examples of what these Centers of Excellence could do are developing best practices for lawyers on the front line of the divorce practice, work with clergy who have agreed to develop and disseminate best practices for working with crisis marriages and religious communities, offer discernment counseling for couples who have started or who are seriously

considering the divorce process, but one or both spouses just really isn't sure that the divorce is the right thing for them.

Ladies and gentlemen, these interacting and mutually reinforcing reforms that I just outlined in brief constitutes one piece of a model act, model legislation, which we're calling the Second Chances Act, and we are willing to work to see that the Second Chances Act becomes a law in every state. Thank you very much.

MR. GALSTON: Well, thank you for that very lucid presentation of a deceptively modest proposal. And now for our skilled commentators, starting with Robert Rector.

MR. RECTOR: I'm going to talk about the reasons that society and the government should be involved in the effort to preserve and strengthen marriage in our society, and I'm going to start with my favorite welfare expert, Lyndon Baines Johnson, and go back to the point that when Johnson launched the war on poverty back in 1964, he clearly said that he didn't want to just deal with the symptoms of poverty, but, more importantly, he wanted to deal with the causes of poverty.

And his goal was not very clearly to -- he actually said he wanted to reduce the welfare state. He wanted to make the poor prosperous and self-sufficient through their own abilities and skills. And if we were to look at this 50 years later, at the principle causes of poverty, as well as of welfare dependence, we find the decline of marriage is the overwhelmingly strongest factor, both in terms of the number of births that occur non-martally, as well as the instability of marriages and subsequent divorce.

If you were to go in every state in the United States, you see that between 65 and 70 percent of the poor families with children are non-married, single parent families, or no parent families. In many states, it's 75 percent. Almost the entire child poverty problem in these states is the result of the absence of marriage in homes.

Similarly, if you look across every state, you find that the probability of child poverty is about 80 percent less in married couple families than it is in single parent families. It is the overwhelming, single strongest factor.

In fact, marriage is more effective in terms of reducing the probability of child poverty than is the parent graduating from high school. It's a rather remarkable statistic, but it's actually true, and that if you were to just put this into a regression, being married, in terms of reducing the probability of poverty, is the equivalent of adding five or six years of education to both parents. It's an incredibly strong factor, which we largely don't talk about. But if we were to go back to Johnson's original goal in the world of poverty, which was to make families prosperous and self-sufficient through their own abilities, through their own initiatives, by reducing the causes of poverty, we have to look at the single, strongest reason why poverty occurs among children, and that is the erosion of marriage over the last 50 years.

Similarly, and not surprisingly, when you look at the means-tested welfare state, with over 70 programs designed to assist poor people, you find that the overwhelming bulk of assistance going to families with children is going to single parent families, probably 65 to 70 percent. And I would estimate that this year, we spent about \$350 billion in means-tested aid to single parent families. Not to say that this aid isn't needed, but that the state has a fairly compelling reason to at least investigate and think about why the need for that assistance occurs, and whether there might be some way to mitigate the growth of the need for that assistance by looking at the reason that we have so many single parent families in the first place.

Similarly, if you were to look at the overall fiscal structure, we find that single parent families, looking at all government services and taxes, receive about \$3 worth of government benefits for every dollar of taxes they pay in. So, society pays a very large cost for the decline in erosion of marriage. In many cases, this is inevitable and unavoidable. But I believe that in some cases it's not, and that society has both a fiscal reason, as well as an overriding social reason, in terms of the wellbeing of the children and the parents, as well, to try to take steps to strengthen the institution of marriage, and to increase the probability that parents can live and remain in healthy marriages.

And one clear aspect of that would be to try to look at those divorces, which we're identifying as not "necessary divorces," and to find a way to encourage those parents to remain together for the wellbeing of the child, for the wellbeing of the parents themselves, I happen to believe, and also for the wellbeing of society, and the final, for the wellbeing of the taxpayer, who ultimately would benefit from such a policy.

I think that this proposal is laid out as a very good one. It's a non-coercive policy, and I think in many cases, is really just an enabling tool to help some couples, not all, but some couples, basically deal with issues in a way that has currently been neglected. I'm very, in particular, interested in the provision of marriage education at an earlier point in the process, and I happen to believe that those types of programs can be extremely effective in terms of reducing conflict within marriages, and, in fact, raising the quality of life in those households. And I think that it's sad in our society that we just let this process fall apart without doing much of anything to help couples deal with the problems that they do have.

Society has the institution of marriage for a reason: because we believe as a society that marriage is the best institution, particularly for raising children, and, therefore, we need to basically take steps -- modest, non-coercive steps -- in order to strengthen that institution. If we do not believe that the institution is worth saving, that we cannot do things to help couples reconcile, it sort of begs the question as to why we bother to have this institution at all.

If it's of no value, that you can get rid of it in 0 days or 30 days whatsoever, why do we even bother to have it at all? But I think implicitly we understand that it's an extremely valuable institution. And we have degraded it over the last 50 years, treating it as not having the value, which if you step back and look at the overwhelming social consequences, particularly for children, when marriage does fall apart or never forms in the first place, it's quite clear that it is an astonishingly important institution, and I truly commend this modest step to strengthen that institution.

MR. GALSTON: Thanks, Robert. Theodora?

MS. OOMS: I'm delighted to be here, and Bill asked me to do the cleanup work, which means I think that I will not underscore and repeat. I'll try not to unspool all the many things that were said by the other panelists, much of which I really agreed with. I think you all did a terrific job, so I will try to say some things which perhaps haven't been said.

But overall, I do think this is a very thoughtful and well-developed proposal. I like the general direction. The concepts, I think we need to discuss and debate them. It's a very complex subject, but I do think it shouldn't stop us from trying to go forward with experimenting with and learning from making some of these changes that have been suggested. I'm going to talk briefly about why this proposal, however, is going to be very likely to be resisted strongly by the domestic violence community and its supporters, and what, if anything, can be done to meet their concerns. And I also have some other recommendations about the proposal.

But Bill Galston wanted me to first provide a little historical context for those who may not be familiar with what's been going on with the marriage and divorce agenda in the policy context, just to remind you that marriage and divorce has traditionally been an issue for state legislatures and courts to deal with.

In the '70s, as noted, following California's lead in '69, all states have now enacted no-fault divorce laws. In the '90s, however, in response to some of the data and concern that's being described, states and communities launched various modest initiatives to strengthen marriage and reduce and discourage divorce, which, in the view of most people, had become too easy. Marriage and divorce are now, for the first time, on the federal policy agenda.

The 1996 Federal Welfare Reform Law, which my colleague on my left had a lot to do with, as well as other people in the room, was the first federal law to explicitly state that promoting marriage and two-parent families, and reducing out of wedlock births, should be the goals of public policy.

In 2002, under the Bush Administration, the Health and Human Services

Department started funding marriage education services using various discretionary funds. And I should make a little note, marriage education is really rather different from, although it overlaps with, marriage therapy and counseling. It's more preventative, it's usually given in groups, it's education focused. So if somebody says I've been there, done that, I've seen a therapist, that's not the same.

In 2005, the Congress reauthorized the welfare program and importantly added a new grant program specifically to fund these Healthy Marriage and Responsible Fatherhood programs. And altogether, around 300 healthy marriage programs have been funded all over the U.S. And just recently, on October 1st, another 60 were funded.

The aim of the majority of these programs and the state initiatives was to prevent divorce through focusing on the front end, promoting healthy marriage through providing individuals and couples of all ages with the information and skills training to help them make wise marriage choices and have healthy, long-lasting marriages. And very few of these government-funded programs were targeted at the back end, namely married couples on the brink of divorce. We've talked briefly about no-fault divorce laws, and there have been various proposals to undo them or modify them, but I think they've generally been considered quite toxic and have not become law.

There have also been many attempts to enact covenant marriage laws, which is a modest reform offering couples the option of choosing a type of marriage contract that would make it somewhat harder to get out of. And these covenant laws are going to be passed in three states: Louisiana, Arizona, and Arkansas.

Now, the Second Chances proposal, I think, disarms a good bit of the opposition to divorce or reform by proposing to change the law, only with respect to divorcing couples with children and focusing on the concept of unnecessary divorce, as has been very well described. These seem much more reasonable and less threatening grounds upon which to build a divorce reform proposal than arguing about the appropriate grounds for divorce, who should be -- whether divorces should be available if only one party wants to divorce, or how the assets should be divided, because that's

been part of the argument.

Now, numerous objections can and will be raised about some of the details of these and other similar proposals, and there are other similar ones. The Coalition for Divorce Reform has a proposal that shares some common elements with this one, about how they would work in different circumstances, and about whether the funding is there to provide some of these necessary education and counseling services. But as I said, we can expect considerable objections are going to be raised by members of the domestic violence community and its supporters.

The resource center I work for has had a strong five-year collaborative relationship with national and state domestic violence leaders. And Anne Menard, who is a key and influential leader in the domestic violence community and runs the National Resource Center on Domestic Violence -- and she unfortunately couldn't be here today -- made a number of points to me after she reviewed a draft of the other proposal, the Parental Divorce Reduction Act. I'm not sure that she's seen this one.

Domestic violence advocates are, in general, she said, very worried about any kind of barrier to divorce placed in front of individuals, who are mostly women in abusive marriages, who have a legitimate and serious reason to end their marriage. Now, both the Parental Divorce Reduction Act and the Second Chances Act make an effort to be sensitive to this issue of domestic violence by, of course, emphasizing that some divorces are necessary, and including up front exemption for those couples where there is a Permanent Protective Domestic Violence Order in place or a conviction for domestic violence.

Now, reports of these exceptions are not sufficient. They don't recognize that many women trying to get out of violent and abusive marriages do not want to disclose the violence and don't make an official report for a number of reasons. Among them, they know that many women who do report are then treated quite horribly by the courts. Such disclosures confer the anger of the abusive partner, lead to an exacerbation in the violence of the abuse, and/or make him even more interested in fighting for custody

of their children.

So in such cases, Anne believes that requiring further delay could really do harm, and time for reconsideration and reconciliation services is irrelevant. But the question is, how can we identify and deal with these hard cases? And how can these and other objections the domestic violence community may raise be met? I believe any state legislator or advocate promoting divorce reform such as this proposal should reach out and consult with state domestic violence leaders every step of the way, including in the early drafting of the law.

Importantly, there should be ongoing consultation with state DV experts as a required part of the law, of its implementation. You need to build trust and listen to each other. You can't expect the DV community to become active supporters of these divorce reforms if you do this, but they will and can work with you to help make the law work better, figure out together how to approach these hard cases, and delay some of their worst fears.

Now, this isn't just my fantasy, this has been going on for five years. We've had extensive experience with this in the federally funded Healthy Marriage Programs, because in that program there's a requirement in the law that all the grantees must consult with their local domestic violence experts and develop a protocol for how to deal with this issue in their programs. This requirement has been taken quite seriously and has, for the most part, worked well. It has led to setting up cross-training activities that have been quite fascinating, and led to mutual referrals back and forth, and created a degree of mutual trust and acceptance in many, though not all communities between healthy marriage and domestic violence programs, and this is true of the Responsible Fatherhood programs, too.

Just a word about the research. There is sufficient research to move forward, you've been very persuasive, but I do think we have to recognize there's still a lot we don't know.

Doherty's study of divorcing Minnesotans and your new program,

Couples on the Brink, are a major exciting contribution to the field, but it needs to be replicated on a broader scale and with more diverse populations. After all, Minnesotans, as Garrison Keillor regularly informs us, are very exceptional.

MR. DOHERTY: Just above average, just above average.

MS. OOMS: I also recommend that a state would be wise to experiment with this proposal first on a pilot basis, perhaps starting with two or three counties and then carefully evaluated. I don't know if that could be done, but it would make a lot of sense. We need to know what works and get a chance to modify the details before we can move forward. Now, timing is everything. Some people, as it's been said, believe the problem with many of these proposals is they come too late in the process, and when they've -- that argument has been made well, so that's -- I'm intrigued by the idea incorporated into the Second Chance proposal. I think it was originally John Crouch's idea about the early notification and divorce prevention letter prior to the start of the divorce proceedings.

I assume that this letter should be filed with an official somewhere, and that it would then trigger the one-year delay, and I think you've agreed with that. This would seem to make sense, but I don't know how it would work out; it's something we have to try. I also might want to word the letter differently. I had some problems with the way it was worded, but the idea is a very good one. It would get the spouses' attention and maybe steer them in the direction.

Particularly, if you go one step further, filing this letter, I think, should trigger automatically some basic information and education to all parents considering divorce, and this shouldn't be considered controversial. We have the concept in this country of informed consent, and I think if we use this phrase, it might make it more acceptable. In health care, for example, before we go for any kind of surgery or procedure, we have to have -- show that we have been informed and have given our consent to the choice we made.

When children are involved, divorce is, indeed, a type of social,

emotional surgery, in my view. So it should be easy to understand why we should require that the party seeking a divorce needs to be informed about what is involved in getting a divorce, how long it may take, it may take a long time, what the risks -- I mean, quite apart from the official delay is it can take a long time because of the contentiousness of it -- what the risks and unanticipated consequences are for all the parties, but especially for children, and what kinds of alternatives, such as reconciliation services, are available that they have not yet tried.

I think this shouldn't be a kind of option, I think this should be almost required, that people are given this kind of information when they say they're seriously considering divorce. Now maybe this is a paternal patronizing thing, but think about it, there are a handful of states who already are working on giving people information and requiring preparation. The churches anyway are requiring preparation before they marry. There are four states that give all couples who apply for a marriage license a guide to marriage to tell them what's involved and how they can try to be successful. They consider it a success if couples back off when they see what is involved.

Now this proposal, I think another suggestion of mine is that there really should be a strong emphasis on the importance, including resources for educating and training all the lawyers and clerks and other people who implement it. Bill, I think, has done a great service in describing -- and you also, Justice -- how the marriage and divorce lawyers and therapists have shifted from an attitude of let's first see if we can consider how to save your marriage to a let's help you get your divorce over quickly stance.

But Doherty and Justice Sears don't include a component for investing in education in training the legal professions who will have to implement the bill. That will make it more expensive, but that's the way -- that is what will be needed. And I say this because I was very impressed when the National Science Foundation-funded study of the implementation of the Louisiana Covenant Law, which was a fairly serious attempt, discovered that the marriage clerks who were key to implementation of the law either

didn't know about the law, didn't agree with it, or actively worked to undermine it. No surprising, not many people availed themselves to the contract, and it didn't seem to make much difference. They had been given no serious training whatsoever, they had just been told this is what you should do.

Finally, I'd like to suggest that advocates try to broaden the support for these proposals by finding common ground with others, we've heard a lot of it today, and making alliances, even with strange bedfellows across partisan lines. I thought the E.J. Dionne's op-ed piece this week complimenting Rick Santorum's efforts to make these issues was a very nice example of finding common grounds across partisan lines. It was in the *Washington Post* for those of you who didn't see it.

Regrettably, I think if those who work actively to introduce the bill are identified as religious conservatives, however thoughtful and reasonable their proposal is, it's likely to get dismissed out of hand by moderates, liberals, feminists, and so forth. We live in Washington, we know it happens, but I think it happens in the states, too.

Thus, I end with a general plea for working collaboratively. A menu of similarly focused divorce reform proposals is beginning to emerge. They need to be regarded as general templates to be adapted, not as final blueprints. And as you and others work on putting forth the Second Chances proposal in the state legislatures, I hope that you will collaborate with others who have and will develop similar proposals, highlighting what they have in common, rather than emphasizing their differences. Thank you.

MR. GALSTON: Well, thank you, Theodora. And thanks to the entire panel. This is about as good as it gets. Thoughtful, research-based proposals are seriously considered and critiqued not with an idea to devastating them, but with an idea to improving them and making them more workable and more broadly supported. I have a few questions of my own, but before I get to them, I'd like to give the authors of the report an opportunity to respond to the friendly advice and suggestions that you've received in the past few minutes.

MS. SEARS: I would like to respond just briefly about the domestic violence proposals or discussion. Having worked in the trenches, I know very well that the DV community can put up quite a block, a legitimate block, and that that will be something that we'll have to work with very, very, carefully to collaborate on. And again, collaborating across partisan lines is going to be absolutely necessary to get this proposal passed, to get this or something similar passed, so I want to echo that.

MR. DOHERTY: Yeah, also I -- what I liked, Theo, is that you made -- you pointed out the weakness and then you suggested ways to do it, and I think building in requirements about that consultation, and, in fact, in Minnesota, where we're a little farther ahead on this, we are actively consulting with -- and a bill that we have now has language that was mutually agreed upon with some DV experts, so I think that's a really important thing.

We do -- in the Centers of Excellence idea, we do -- one of the things that those centers can do, and I have one in Minnesota, is train lawyers and therapists and clergy, because I have been a student, as you're suggesting, of failed experiments, where it's passed by the legislature and nobody actually does anything on the ground. And we -- just as an FYI, we have a Minnesota Couples on the Brink project, which is a Center of Excellence for the -- developing the capacity of professionals in the state to educators, therapists, lawyers, clergy to respond to people who need help on the brink. And we funded this with a \$5 surcharge on marriage license fees, and this passed our legislature without a single negative vote.

The idea is, we know that a good fraction of newly marrying couples are - - will be at risk for divorce. A number of them will be on the brink someday, sad to say, and the idea is a permanent surcharge, which is \$5, to bring in some modest, permanent funding for the development of the capacity of the state to respond to those. So the argument worked, and we have a permanent center and we are doing that kind of training.

So I want to underline that if we're only talking about delaying divorce

without these resources, I would not be for it. I think it's a package. It's a waiting period and then what can go on during that waiting period. And the Centers of Excellence is really a very important piece of this.

I train marriage counselors and therapists, and so I speak about my own profession in the world of therapy, and it's bad out there. A lot of folks don't know how to help these couples and we need to develop the resources for them.

MR. GALSTON: Well, we have about another five minutes of panel discussion before we move to the allotted 25 minutes for audience participation. And so I'd just like to pose two questions. Question number one, I think there's broad agreement on the panel that the principle, though perhaps not sole state interest in this issue, has to do with the wellbeing of minor children.

And in the course of the initial presentations, several panelists have alluded to the wide range of consequences of divorce, particularly in this unnecessary category on minor children, and I think it might be useful to explore the research base of that proposition a little bit more thoroughly.

We've heard a little bit about the financial and programmatic consequences. What do we know about the psychological and social consequences for minor children, and how solid is that research base?

MR. DOHERTY: Yeah, it's as solid as anything we have in the social sciences, and it's been getting better over time, particularly the generation of longitudinal studies, both in the United States and other countries, that have looked at a wide range of child outcomes. For instance, we know that children's academic achievement, both in school and later, is affected by the divorce. And by the way, the good studies are now controlling for pre-divorce factors, because always the issue in this research is the selection, the hypothesis versus the causal hypothesis. Were these kids going to have trouble anyway because they happen to have parents, whether they stay married or not, we're not, you know, -- had challenges.

And so the generation of studies that have followed families for 20 years,

25 years, before they broke up, have been able to establish that there are these deleterious effects on average, controlling for, adjusting for pre-divorce factors. Again, knowing that there are some, this is where it's complicated, because there are some kids who do better when their parents break up.

But on average -- and then when we break it out with these, what I call the low-conflict couples, we also have learned -- and Andrew Cherlin is a good example of this, he followed his 25-year longitudinal study of British kids, arguing early on that the effects were modest, and we shouldn't overblow them, the negative effects of divorce. And then, when those kids were 25, he found that they were diverging, that the effects on psychological morale as a psychological -- those kids were doing worse.

We now have good data on the future divorce prospects of children of divorce. The best study of this, using the best data, suggests about a 50 percent greater likelihood that you will divorce yourself, and these sorts of things hold up even when you control for social class and other factors; and also that children of divorce tend to marry other children of divorce disproportionately, and when you have two children of divorce getting married, you have a double of the likelihood of divorce yourself. So we're learning about the multigenerational effects.

MS. OOMS: I actually have a question for Bill about the research. I'm not an expert, but I agree with you, we have a ton of research, good quality research now about the effects on kids. What I think we may not know enough about is that hot period when people decide to get a divorce. What's going through their minds? What do they know about divorce? What do they think will happen to them and their children? Do we have a lot of research about that?

MR. DOHERTY: No.

MS. OOMS: My sense is that's what we need to know about in order to tailor some of these interventions.

MR. DOHERTY: I agree, and what I'm involved in with our intervention project, our Minnesota Couples on the Brink project, we have now worked with 60

couples on the threshold of divorce, and I'm learning a ton. I'm learning a ton. The degree of up and down, in and out ambivalence, one day in, the next day out, multiple people in their lives giving them so much input, it's amazing.

There are couples that I worked with who, we have this -- what we call this discernment counseling process, and some people make the decision to go ahead with the divorce, and I figure they're long divorced, and I hear from them a year later because they're still hanging. We need to know a lot more about -- I like that, that hot period, a whole lot more about it.

MR. RECTOR: From my experience with the research in this field, it's very difficult to find any outcome variable where married -- children from married couple families don't do better, from asthma to just about any variable you can think of, and that that's true even when you hold the income effect, the higher income of the married couple, constant in most cases. I would just like to comment on one of them, which is the very, very large difference in child abuse between married couple families where both the biological mother and father are present in any other type of family structure. There's one study from the United Kingdom where you show variation as high as 40 to 1 in terms of the amount of physical abuse going on, that the overwhelming bulk of physical abuse is occurring after the biological couple has separated and there's another male in the home who is not the biological parent of those children.

It's a very risky situation. In many cases, it's unavoidable, but certainly it's something where we would want to take steps to try to keep that original couple together as much as possible for the well-being of the child.

MR. GALSTON: Well, although I have lots more questions as moderator, I'm going to moderate my inquisitive spirit in the name of providing the full 25-minute period for audience participation. There will be a couple of roving microphones, and when I call on you, please wait until the microphone reaches you so that everybody can hear what you have to say. Please identify yourselves at the beginning, and then state a question please. So who would like to begin? Yes, the woman in the third row

here.

MS. WETZSTEIN: Hi, I'm Cheryl Wetzstein with the *Washington Times*. Mr. Doherty -- Professor Doherty, you're introducing a new idea of soft reasons for divorce, you mentioned growing apart, lack of communication. Can you elaborate please on what you're talking about?

MR. DOHERTY: On what I mean by the soft reasons, yeah, those things that are not about somebody behaving badly, okay. And what I call the hard reasons, if somebody is gambling the family money away, somebody is abusing somebody, somebody is having a series of affairs, why don't you just use kind of lay language? There's something there that somebody is behaving dysfunctionally.

Young couples now want to marry their soul mate, and if you look at these wedding shows, these -- you know, *Bachelorette* and these other sorts of shows, everybody wants to marry their soul mate.

And then a little while later, your soul mate watches the ball game or criticizes you or something like that. And so the soft reasons are very much sort of -- are culturally based in the sense that they are quintessentially mid-20th century and beyond, educated, you know, people with sort of Western values or college educated people in Asia, who expect intimacy, expect to be best friends, and my view is that we don't actually prepare people for the kind of marriage that we now expect in our society.

For men and women to be good friends and confidantes and have equal gender roles and all that is a very big thing if you look at the history of marriage. And when we don't live up to that in a culture where we see marriage as a consumer lifestyle, to get my needs met, then we move on.

MS. SEARS: I'd like to just add one thing. In the judiciary, we call the hard reasons the three A's: that's addiction, abuse, or affairs. Just to -- you know, judges can be practical. So addiction, abuse, or affairs and everything else pretty much was soft reasons, not -- but just generally speaking, okay.

MR. GALSTON: I'm going to remain in the front and work my way back.

There was a gentleman on the wall there. Yes.

MR. PATTERSON: My name is Bob Patterson. I'm with the Howard Center out in Rockford, Illinois, and edit the *Family in America*. Justice Sears and Professor Doherty, I appreciate your effort to -- remarkable effort to try to reduce unnecessary divorce. I especially liked in your proposal your recognition of the rule of law in terms of embodying American values of -- our values, the rule of law being a teacher, the setting up moral or setting up normative standards. And in light of that, both of you also said that you don't want to mess with doing away with no-fault divorce.

My question is, in light of your understanding of the law, why not just, you know, take the root by the horn, and get rid of no-fault, and not just put a Band-Aid over a bad law? When you look at all the measuring sticks of what America was in 1960, 1950, 1940, almost all of the outcomes for women, for children were so much better without no-fault. So why not just yank the whole thing, root and nail, rather than putting a Band-Aid on a miserable experiment?

MS. SEARS: Thank you for your question. I have two answers to that question, two opinions. First, you know, I don't know if going back to the Ozzie, Harriet, and all that period was so great, you know. I wouldn't want to do that. It was good for some people sometimes, but we don't want to go back to a time in this country where you couldn't get a divorce, or if you had to get a divorce, you'd have to go in there and lie about, you know, reasons for, just all that. I mean, I would not want to see us going back to the '50s or the '60s where that's where you had to do -- so that wasn't such a great time as I see it.

SPEAKER: And today's better.

MS. SEARS: No, it's not. I believe the pendulum has swung too far in the other direction, and that's why I'm here, but we don't want to swing it all the way back in the other direction, too.

And then the other thing is, you know, I've been elected many times, so I'm a practically elected jurist, and no-fault can't be gotten rid of now. So if you pull the

root up, it would just die. We need to take baby steps, we need to be practical.

MR. GALSTON: Any other comments on that question? Well, I don't want anyone to accuse me of being biased towards middle-aged men with grey hair, but there are two more hands in the front, people of that description. Sir, yes.

MR. ALTMAN: Hi, I'm Fred Altman, and my question is, given that so many more people are not bothering to get married in the first place, and I think in Europe there's even more stability in non-married, why not apply all your suggestions to unmarried couples with children, as well as with married couples?

MR. DOHERTY: So another great question, it's the art of the possible. And the state doesn't come into contact in the same way with unmarried couples. Recognition of paternity is (inaudible) that was just the only way, whereas with divorce, people have to actually file. I'm personally very interested in that population. I've got projects, separate projects in with that group. But as Justice Sears says, we're trying to bite off a particular thing, and if we try to do too much with one bill, we're not going to get there.

MR. GALSTON: Oh, I'm sorry, Robert.

MR. RECTOR: That is also a very interesting group to me. The underlying factor there is that the cohabiting parents just simply don't stay together very long, and so that's a separate factor. In that case, you really have to build a level of commitment and understanding of commitment, it seems to be the key issue. But it is a growing problem, and -- but I would think that if you want to keep the father in the home, in those situations, one of the most important things you can do is, in fact, create structures that encourage the couple to get married, to make a formal commitment, rather than just kind of drift along and hope for the future, and then provide them with support services to help make that marriage sustained and healthy.

MR. LEVY: Hi, I'm David Levy, president emeritus of the Children's Rights Council. Research shows that the states with the greatest amount of physical joint custody subsequently have the lowest divorce rate, according to data from the Census

Bureau of the National Center for Health Statistics. This data was confirmed by researchers Brinig and Buckley in the *Indiana Law Journal*. The reason seems to be that parents know they are going to have to share their children. There's one less incentive for divorce.

Secondly, about domestic violence, it is a serious concern, but joint custody, as passed now, is legal in all 50 states, and is a preference or presumption in one form or another in many of those states, despite the opposition of the domestic violence lobby, because many women legislators and other women, and others, support increasingly the idea that a child should have frequent and continuing contact with both parents.

MR. GALSTON: Any comments or reactions?

MR. LEVY: Well, shouldn't this be something in your implementation?

MR. DOHERTY: We are in the divorce prevention business with this proposal.

MR. LEVY: So is this your proposal?

MR. DOHERTY: And we have chosen not to get into trying to prevent it by modifying other aspects of divorce law related to custody and other things. We simply -- that's -- this is going to be hard enough to pass as it is without moving into those other areas, so it's a pragmatic decision.

MR. GALSTON: I'm now going to move to the back, and then I'll come back forward again. Are there questions -- typically there are questions in the back that I don't see, especially if I'm not standing at a podium. Yes, there's one.

MS. FLYNN: Hi, my name is Kate Flynn, and I have a few questions about the data you used to develop those models.

MR. GALSTON: Could you stand up and hold the microphone a little closer to your mouth please?

MS. FLYNN: Sure, no problem. Just to repeat my question, well, I have -- I want to know basically about the data you used to develop this model. What is the

percentage of couples in those states that you talked about with the one- to two-year wait period, what percentage of the those couples that enter into that process essentially drop out of the divorce process during those one to two years?

MR. DOHERTY: I do not know that.

MS. FLYNN: Okay, so then what, I guess, is the reason for the year wait period? Is that to get the counseling?

MS. SEARS: All for the factors that I outlined, that divorce, just as a value of this -- in this country, shouldn't take 10, you know, 10 minutes. It's an important institution, so it should be sort of honored as that. The cooling off period that I outlined to give the couple a chance to consider reconciliation and education basically.

MS. FLYNN: Okay.

MR. DOHERTY: I can tell you that in Hennepin County, Ramsey County, Minneapolis, St. Paul, where we've looked at -- where there is no waiting period, we have looked at the divorce, how long it takes to -- from filing to the dissolution of the marriage of people with children, and it's -- three months is the average, it's lightning fast.

MS. FLYNN: Okay, thank you.

MR. GALSTON: Okay, I'm going to move back towards the front then. I see two gentlemen, this gentleman is first.

MR. COFFIN: Hi, I'm Bill Coffin with the National Association of Relationship and Marriage Education, and I want to refer to the letter on page 29 of the report. I know Theo mentioned that she might have some suggestions for re-wording. I was struck -- I'm struck by the fact -- and, Bill, correct me if I'm wrong -- but there was a study where -- that showed, and it may have been by Cliff Notarius at Catholic, that showed that couples don't go for help until they've had a problem for up to six years.

So there's a lengthy process to begin with, and yet this letter says, in the second paragraph, "I have consulted with a divorce lawyer who supports my desire to save our marriage." It may be that it would be hard to find divorce lawyers like that.

MS. SEARS: That's a bad dig.

MR. COFFIN: And it doesn't become a very early notification letter because somebody has already taken that step, and yet my concern is that if you remove that step, this letter could be used by a lot of spouses in this country right now to get their spouse's attention.

The last comment I have about it, as a next concrete step, you outline suggestions of where people could go for help, and I would like to see added specifically marriage and relationship education.

MR. DOHERTY: Yes, well, a couple things. One is, it's easy to take digs at divorce lawyers, which I don't do anymore because I'm working with a group of collaborative divorce lawyers who have formed the Marital Reconciliation Option Project in family law, and who, on the basis of this data -- I've never actually done research that had such immediate impact on the world. Most of my research ends up in a journal that graduate students have to read. But a group of divorce lawyers took the data that was really their clients, that 30 percent of their clients are saying they think their marriage could be saved, and they formed a group who are developing practices for divorce lawyers to open up the reconciliation conversation when people come in, and they are beginning to use this letter at that point. So John Crouch, who's a divorce attorney, developed this. And I also want to say that a focus group done by the Institute for American Values some years ago on people who had successfully reconciled, a number of the women in the focus group said that they had a divorce lawyer who said, go home and tell your husband you talked to me and I'm not a nice guy, you know, and he might want to change his mind, or something like that, and it was sort of the wakeup call.

And so this could be used earlier, but there is a certain power of saying, I'm very close, I'm very close to taking an action I don't want to take. And that list, by the way, that was just to hold for example.

MS. SEARS: Let me just give you one other quick example. May I?

MR. GALSTON: Yes, of course.

MS. SEARS: Okay. When I was a Superior Court judge, the third or

fourth year, a couple came in who had been married for 40 years and I refused to divorce them. And I just said, go home, I'm not going to divorce you, okay, I won't do it. They had five children. The children were all -- there was just an intuitive feeling that I had that this just didn't -- and when I separated the two, I could tell the wife really didn't want it, but she was fed up. He was having an affair, the children all knew, and it was terrible, but I just felt they could fix it.

Two years later, I was sitting in my chambers late one night and the man came to see me and thanked me. They're back together, you know. So there are intuitive senses that you get that you can save couples if you'll just slow down the process. Excuse me.

MR. GALSTON: No, no, no, no. I have long believed that there are few problems that a dose of unscripted wisdom couldn't solve, but that kind of unscripted wisdom is in short supply, regrettably. There were two questions on the aisle here. This gentleman.

MR. BRAYLEN: Justice Sears, Gerard Braylen, my wife, Tanya, is here with me, and we're involved in marriage work in New Jersey. That would make it really easy. You wouldn't need any of the research if the judge could just say, I'm not doing it, that'd be great. No, it would be great. I didn't know if that's true.

MS. SEARS: You can do that, you can do that.

MR. BRAYLEN: Oh, you have to come back. I have a couple of questions. One with the children, is it more of an emphasis, I guess politically maybe, to emphasize the effect of children issue as opposed to saying a couple without children? And secondly, have you thought about whether you could institute, you know, we talked about the issue with Professor Doherty about, you know, it's not -- and Justice Sears, as well, that it's not something you should enter into lightly, divorce, that is, it's something you should think about. And I think on the front end, in terms of entering into marriage, if whether someone on the front end could say, you know, there should be some sort of counseling or education beforehand, before you even get a marriage license.

I mean to get a driver's license, you have to take driver's ed, so I don't know if that's -- I know some people do it in a religious context, but maybe if the states were interested in saying, you know, we want people to really understand this, if that could be something implemented as well.

MR. DOHERTY: We -- in Minnesota we have an \$80 waiver on marriage license fees if you do a pre-marital education course. A number of states have those. The state -- I'm with you on preventing all divorces, not just those with kids, but the sort of political leverage is around the needs of children, and that's where we're starting. But there's nothing magical that occurs that the youngest child is 19 and now it doesn't disrupt their lives if their parents get divorced. So I really agree with you, but pragmatically, the first entry in is with kids.

MR. GALSTON: Please.

MS. OOMS: I have to say that your -- with respect to -- shouldn't we be preparing people better and helping people have a better marriage, is certainly something I mentioned before. There are a lot of programs now, a lot more than there were, that try to do exactly that. In Oklahoma -- the state of Oklahoma probably has the most. They have been working on this for 12 years, the governor's initiative.

There are now workshops to encourage healthy relationships. They've changed the name of them now, I forget what they're called, Two of Us, I think, and people who have a relationship, people who are married, people who are engaged can go to these and learn a lot. And they're free and they are available in every county in Oklahoma. That's the most expansive. Other states have done little things, and there are these federally funded programs, and some churches are active, many are not. So, we need more of that kind of thing.

MR. RECTOR: I would just concur with that. I think, you know, if you watch couples feud or, you know, or if you have feuded as a couple yourself, it is a huge, you know -- if you were to measure this as a component in the GDP or something, it's a very, very strong factor in terms of human happiness.

And I just think you can make the very clear case that there are social and governmental costs associated with this, but the psychological cost is also just very large, and I think as a society, we really don't help people try to sustain healthier marriages. We just, I think, do a really bad job about that. I think what I would like to see is, you know, given the long-term fiscal consequences for the government, just, you know, an outreach to couples at a very earlier stage.

My ideal is just an ad of a couple doing what couples do when they feud, and we know what that is, and just say, does this look familiar? If it is, and you don't like it, call this number, you know, because there's a way to stop this, you know, and I just really would like to see that ad out there. I'd like couples, when they're doing what couples do, when they devalue each other and feud and all of those things, which is so repetitive, just to give people in our society access to say, this is not inevitable, there are ways to stop this.

My favorite marriage strengthening piece of advice has always been, when I finally read it in a book, you know, if you've already done it 50 times and it didn't work, it's not going to work the next time. And when I read that I said, wow, that's really profound, what genius. So I didn't do it the 52nd time.

MR. GALSTON: The last question goes to the gentleman on the aisle, right there.

MR TURNER: Yes, I'd like to ask Professor Doherty this question. So much of what we try -- I'm Jason Turner from Practical Government Solutions. So much of what we try and do in government program policy is overwhelmed by the cultural overlay, certainly in the welfare system this operates. So I'm trying to think of how to get the good work that you are attempting to accomplish through the law into the popular culture in a way that it becomes recognized.

So here's a proposal that I'd like you to react to. What if a producer of a reality show were to come to your subset sample, that is, the people that have decided they want to try and work on their relationship and did a show showing these couples

working out their problems? Some succeed, some don't, but wouldn't that elevate the importance and the sanctity of marriage as a goal in the popular culture?

MR. DOHERTY: I agree. I think that's a great idea. If you know a producer, we'll talk. So maybe just as a final comment on that, I think we're dealing with cultural change, and services are important, counseling, education, but I think most of this occurs as cultures shift.

College educated married couples have -- their divorce rates have plummeted. I think the message is getting out to that group. And part of the message that's involved in the Second Chances Act at the cultural level is that even marriages that are on the brink, many of them can be restored to health.

Because the cultural assumption has been, like with fruit, if it gets rotten, it never gets ripe again, and we need to change that cultural assumption, and media is a powerful way to do it, I agree.

MR. GALSTON: Well, I think two sorts of thanks are in order, not only to the panel for outstanding presentations and responses to queries of various sorts, but also to the audience for asking such well-informed, pointed, and relevant questions. It's been a pleasure to be part of this. So everybody should thank everybody.

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CERTIFICATE OF NOTARY PUBLIC

I, Carleton J. Anderson, III do hereby certify that the forgoing electronic file when originally transmitted was reduced to text at my direction; that said transcript is a true record of the proceedings therein referenced; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, furthermore, that I am neither a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

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