

Elisha Roy: Divorce 'reform' will hurt spouses and families

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Written by

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My View

Recently unveiled by advocates for so-called “reform” in family law, a new movie called “Divorce Corp” attempts to portray divorce as a multibillion-dollar industry, foisted upon society by greedy lawyers and judges. The solution, these advocates say, is to pass new laws to make divorce easier and more predictable.

Nothing is going to make divorce easier or more predictable. Divorce is complicated, and it is emotional. It is one of the most difficult experiences in life, especially when children and assets are part of the equation.

When a marriage is ending, most lawyers advise their clients to try to resolve the matter amicably between them, as it is far better for individuals to control the outcome of their cases than turn it over to a judge with limited time to understand their lives and issues. Unfortunately, not all clients listen, not all issues are able to be resolved by mutual agreement, and sometimes, no matter how good the legal advice, everyone just cannot agree. It is the exception rather than the rule that intervention by a measured and dispassionate judge is required, but when it is, the law must be evenly applied and evenly drafted.

The Family Law Section of the Florida Bar has always supported eliminating long and drawn-out fights, and, to that end, the section is actively involved in drafting legislation to create a more family-friendly legal process. The section drafted legislation to eliminate the terms “custody” and “visitation”; to apply child support fairly so that the dollars follow the children; and in 2010 to create durational alimony so that judges could more accurately award alimony in “gray area” marriages. The difficulty in divorce is not created because of the lawyers or the system. The difficulty is because of the parties involved and often because of the reasons cited for the divorce.

In Florida, the alimony “reform” advocated by the proponents of the movie “Divorce Corp” is a veiled attempt to create a one-size-fits-all alimony model. The proponents of “Divorce Corp” have misstated the law and its application in Florida to elicit fears by “breadwinners” in marriages. The goal of this “reform” is to create a system in which parents who have been out of the workforce and stayed at home to raise children are penalized and expected to work to their fullest earning potential post-divorce, despite having been unemployed, or minimally employed, during the marriage.

There cannot be a cookie-cutter approach to alimony. A two-income family has a vastly different living situation from a family in which only one parent works, and a vastly different situation from the family in which one party makes millions of dollars compared with a home in which both parties work and together barely make \$70,000. Spouses who request alimony do not receive anything unless they demonstrate a need. We cannot have a system in which a person who has been married for more than 20 years is treated the same as someone married for 10.

We in the Family Law Section are steadfast in our position because we care. We care about the spouse who may have forfeited a profitable career to focus exclusively on rearing children. We care about children who may be left with fewer financial opportunities and benefits than before a divorce.

Spouses should not be able to use the law to their advantage and to the detriment of their spouses and families.

The Family Law Section of the Florida Bar has worked to improve family law and to make changes when it is appropriate. The changes to the law we drafted, and which were enacted in 2010, brought the law up to date and made it fairer for both spouses.

Of course, in any system, some anomalies will be present; we continue to work to address those in a reasonable manner. However, the radical “reforms” as currently constructed are irresponsible.

A final note to the producers of “Divorce Corp” about their allegation that family lawyers are protecting a multibillion-dollar industry: If it were all about the money, we would push for radical changes.

The alimony law proposed and passed in 2013, and vetoed by the governor, was a lawyer relief act, virtually begging for litigation in every case. If that law had been enacted, family law attorneys would have reaped a tremendous financial benefit.

But it would have detrimentally affected a tremendous number of spouses and families. That is not our goal. We represent all Florida’s citizens, not just those who seek to change the laws for their personal benefit.

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