



Texas Families First (Phase II) Task Force Report:

Saving Money, Saving Families

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Introduction

The explosion of social welfare spending at the state and national levels is tied (almost) directly to funding for programs to ameliorate the effects of divorce, out-of-wedlock births, and the rise in the number of single-parent families. Pinpointing the precise amount of spending which results from family breakdown is difficult. Ultimately, however, the state, and society at large, must begin to value the family in order to reduce the fiscal cost of family dissolution.

Family provides a level of support, protection, and stability that government cannot. The family plays a significant role in the financial, emotional, and physical well-being of every Texan, and no amount of state spending can ever completely fill this role. In fact, the fiscal costs of social breakdown demonstrate that the state will spend increasingly large amounts of money to deal with the direct effects of family dissolution (e.g. child-support collections and correctional facilities) and to improve the living conditions of otherwise healthy and potentially productive individuals in ways that would ordinarily be provided by one or both parents (e.g. children's health care, day care, free and reduced-price school lunches). In a significant financial sense, the government fills the void caused by social breakdown.

The desire to find state-funded substitutes for an intact family will not ameliorate the effects of a broken home. The state must look to address the root cause of social breakdown and to advocate for healthy marriages and family formation. Otherwise, this problem threatens to consume state budgets as it grows from one generation to the next.

The relationship between broken homes and poverty is well-documented and undeniable, as is the relationship between broken homes and the physical and emotional well-being of adults and children. The Healthy Marriage Initiative, sponsored by the U. S. Department of Health and Human Services, cites the following conclusions about the benefits of marriage and family formation to children. Children in married households are:

- More likely to attend college;
- More likely to succeed academically;
- Less likely to demonstrate behavioral problems in school;
- Less likely to be a victim of physical or sexual abuse;
- Less likely to abuse drugs;
- Less likely to get divorced;
- Less likely to become pregnant (or to impregnate someone) as a teenager;
- Less likely to contract a sexually transmitted disease; and,
- Less likely to be reared in poverty.

Since healthy marriages are manifestly so beneficial, the state must take aggressive steps to strengthen families by creating incentives for couples to prepare for marriage; by making divorce more difficult and deliberative; by helping families to support themselves and end reliance on state assistance programs; by increasing funding for legitimate state

roles in protecting children; and by increasing funding for state activities that support and strengthen marriage through faith-based institutions and other community organizations.

Amending and strengthening state law to meet these objectives will require lawmakers to be fully committed to Texas families. The fiscal cost of social breakdown proves that the state can no longer afford to be neutral on this issue, and that legislators must ensure that at its core, public policy values the importance of Texas families.

In addition to providing incentives for family formation and the creation of strong, stable marriages, legislators also need to consider the appropriate role for the state's welfare programs in fostering the growth of families who are able to support themselves, and in laying the foundations for the independence and success of future generations.

In 1996 Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), commonly known as "welfare reform." The Act brought sweeping changes to the welfare system, ending government assistance as an entitlement and replacing it with a system that required work and offered only time-limited assistance. States were given additional flexibility in determining their Temporary Assistance to Needy Families (TANF) programs through block grants and with far less micro-management from the federal government. Welfare reform set strict requirements for work and work activities and provided that, with few exceptions, families are not eligible for assistance after an adult in the family has received federally funded assistance for five years. These provisions were intended to reach the following goals: reduce welfare dependence and increase employment, reduce child poverty, and to reduce and prevent out-of-wedlock pregnancies and strengthen marriage. Welfare reform has been successful in meeting each of these goals.

Because the work requirements are central to welfare reform, the state must encourage and enforce appropriate participation, including more stringent sanctions for non-compliance. Exempting clients or providing benefits without requiring compliance with work activities only puts the client at a disadvantage for the time when they become ineligible to continue TANF participation. Without work experience, and without skills training, these individuals are not well-prepared to pursue work opportunities on their own, lowering their chances of being truly self-sufficient.

Texas has achieved great success by reducing TANF enrollment in the state by almost 40 percent since 2002. This success is due in large part to the effectiveness of the work-activity programs in which many welfare recipients are required to participate. If the decline in TANF enrollment is to continue, and if the new welfare-to-work requirements are to be met, legislators must strive to ensure that the percentage of TANF recipients who are exempted from these requirements does not continue to increase.

Minimizing the numbers of individuals and families who are forced to rely on state assistance will help to move the state to its appropriate role: that of a safety net. Stronger marriages and families will further alleviate reliance on state assistance.

Building Stronger Families: Marriage and Divorce Reform

Barbara Dafoe Whitehead, co-director of the National Marriage Project at Rutgers University, summed up the importance of marriage in the opening of her testimony before the U.S. Senate Committee on Health, Education, Labor and Pensions in April 2004:

Marriage is a universal human institution. It performs a number of key functions in virtually every known society. Marriage organizes kinship, establishes family identities, regulates sexual behavior, attaches fathers to their offspring, supports childrearing, channels the flow of economic resources and mutual care-giving between generations, and situates individuals within families, kin groups and communities.¹

In those few sentences, Dr. Whitehead not only focuses on the aspects of marriage that strengthen society, but also offers a brief glimpse at the severity of the problem should marriage fail. Marriage may not be the sole reason for a successful life, but the evidence shows a clear correlation between marriage and the physical, emotional, and economic well-being of children and adults. Similarly, broken families face an uphill battle because the numbers show longer odds for such stability and well-being.

The poverty rate among single-parent families is about five times higher than among married-couple families.² Disturbingly, more than 80 percent of long-term child poverty occurs among children reared in never-married or broken families.³ Compounding the long-term poverty effects for children is the fact that around one in three children is born out of wedlock.⁴ The high rate of out-of-wedlock births, coupled with the reality of long-term poverty for these children, is as disheartening as it is unacceptable.

Additionally, reports repeatedly demonstrate that the benefits of strong families are felt by adults as well. Married adults are far more likely to report that they are happy, and married mothers are half as likely to suffer from domestic violence.⁵ It is indisputable that marriage has a positive impact on the well-being of adults, children, and families, and that it improves satisfaction with life and fosters economic stability.

The numbers show a similar positive correlation between marriage and other factors. Children of married adults are less likely to repeat a grade or have serious discipline or behavioral problems, and teenagers raised in an intact marriage are less likely to be

¹ The Heritage Foundation, "The Positive Effect of Marriage: A Book of Charts," Pat Fagan, Robert Rector, America Peterson; April 2002.

² The Heritage Foundation, "The Continuing Good News About Welfare Reform," Backgrounder #1620, Robert Rector and Patrick Fagan, February 6, 2003.

³ Ibid.

⁴ Ibid.

⁵ The Heritage Foundation, "Marriage and Welfare Reform," Backgrounder #1606, Patrick Fagan, Robert Patterson, and Robert Rector, October 25, 2002.

sexually active.⁶ Even anecdotally, these results make sense. Stories of broken families and loss dominate the pasts of incarcerated adults and youths, and they are often also the story of parents whose children enter the child-protective services system. Children lacking the model of healthy marriage—with all the associated lessons of faithfulness, respect, and family commitment—often continue a cycle of poverty and dependence.

The research clearly shows that children and adults in stable families have a distinct advantage over their peers in broken homes. The importance of marriage cannot be underestimated as it forms the most solid foundation for rearing children, building bonds between family and community, and providing greater economic stability. Considering the importance of the institution of marriage on the community and in the lives of people, there is considerable reason to contemplate the impact of the decline of marriage in American families.

The High Cost of Divorce and the Breakdown of Marriage

Research published by the Heritage Foundation details both the societal and fiscal costs of divorce. According to the research, federal and state governments spend more than \$150 billion per year subsidizing single-parent families. This compares poorly with the \$150 million that is spent through state and federal programs that aim to reduce out-of-wedlock births and divorce.⁷ It can be deduced from this analysis that:

[F]or every \$1,000 that government spends providing services to broken families, it spends \$1 trying to stop family breakdown. All society receives in return for this “investment” is more of what it subsidizes—broken families, troubled children, and social problems.⁸

This comparison is indicative of the skewed incentives inherent in the welfare system. Instead of encouraging marriage and family formation, the welfare system provides financial benefits to individuals who have children but remain single, or to couples who have children but remain unmarried. As Wade F. Horn, Assistant Secretary for Children and Families at the U.S. Department of Health and Human Services, argued in August 2006, the message that the welfare system sends is:

We will give you a lifelong entitlement to cash so long as you have a dependent child and you don't do two things: you don't go to work and you don't marry someone who is working.⁹

⁶ The Heritage Foundation, “The Positive Effect of Marriage: A Book of Charts,” Pat Fagan, Robert Rector, America Peterson; April 2002.

⁷ The Heritage Foundation, “Encouraging Marriage and Discouraging Divorce,” Pat Fagan, March 26, 2001.

⁸ The Heritage Foundation, “Encouraging Marriage and Discouraging Divorce,” Pat Fagan, March 26, 2001.

⁹ The Heritage Foundation, “The Collapse of Marriage and the Rise of Welfare Dependence,” Heritage Lecture #959, August 15, 2006 (delivered in part by Wade F. Horn); <http://www.heritage.org/Research/Welfare/hl959.cfm>

The cost of these misplaced incentives is borne by taxpayers through the welfare programs they fund. Building on the Heritage Foundation’s research, scrutiny of the money that Texas spends on welfare programs reveals the extent to which this help is devoted almost exclusively to offsetting the negative financial impact of divorce and the growth of single-parent families. For example, a survey of the Texas TANF population reveals that only three percent of TANF recipients are two-parent households. Thirty-seven percent of TANF families are single-parent households, while 60 percent are child-only cases—although “in a significant proportion of child-only cases that adult caretaker is a relative of the child.”¹⁰ This underscores the point that welfare programs and state assistance are in large part the direct cost of divorce and family breakdown.

In the light of these facts, the state should take appropriate steps to encourage marriage and family formation. The following recommendations describe ways in which existing provisions such as marriage-license fees and the marriage waiting period can be reformed in order to strengthen the institution of marriage. Furthermore, significant reform of the state’s “no-fault” divorce laws is also recommended.

Recommendations

Marriage License Fees

Current law only makes half-hearted attempts to encourage premarital counseling. Section 2.013 of the Family Code encourages applicants for a marriage license to attend premarital education courses, and recommends topics for instruction and who should offer such courses. Current law *allows* county clerks to maintain a roster of the courses offered, and *allows* the clerk to give a copy of the roster when requested by the applicants.

County clerks should, instead, have incentives to provide this information to applicants, encouraging them to look into premarital counseling in order to receive a lower-cost license. All of this information should be available through the county’s website and prominently displayed in the clerk’s office.

It is reasonable that the state should establish incentives for attending pre-marital counseling, and that the state should use the marriage license fee to reiterate the importance of strong marriages to all couples marrying under Texas law. Such action is not without precedent in other states (Florida enacted its Marriage Preparation and Preservation Act in 1998, which reduced the marriage license fee by 50 percent for couples who complete a marriage-preparation course¹¹), and is analogous to requiring discounts on car insurance for drivers that have completed defensive driving.¹²

In Texas, the law already specifies the information premarital counselors must provide in order to be on the approved list maintained by the county clerk. The law allows

¹⁰ “A New Welfare-to-Work Approach for Texas,” Center for Public Policy Priorities, February 2007.

¹¹ The Heritage Foundation, “Encouraging Marriage and Discouraging Divorce,” Pat Fagan, March 2001.

¹² Consumer Bill of Rights for Personal Automobile Insurance, Texas Department of Insurance.

counseling through mental-health professionals as well as religious practitioners. Many churches and synagogues offer such counseling without cost, and also offer newly married couples opportunities for long-term counseling and community within that church. In addition, the involvement of churches and synagogues in premarital counseling could be important in the marriages of many couples. Lawmakers should look to provide additional opportunities for faith-based groups to support the activities of government when appropriate, which the strong incentives for counseling provide.

Specifically, Section 118.011 of the Local Government Code establishes the fee for a marriage license at \$30 and the declaration for an informal marriage at \$25. In order to encourage applicants to attend premarital counseling, the fee for a marriage license should be significantly reduced. Applications for a marriage license for applicants who have attended at least six hours of premarital education counseling should remain at \$30. Applications for a marriage license for applicants who have not attended premarital education counseling should be increased to \$90. In addition, county clerks should be encouraged to make the information on premarital counseling and the reduced license fee readily available to applicants, and for doing so should be allowed to keep a greater percentage of the \$30 license fee than the \$90 fee.

The following language is recommended:

- (A) Each couple applying for a marriage license who have attended a premarital education course of at least six hours during the year preceding the date of the application for the license shall pay a marriage license fee of \$30. A couple who have not completed at least hours of premarital education shall pay a marriage license fee of \$90.**
- (B) The course under subsection (A) may be completed by:
 - (1) Personal instruction;**
 - (2) Video instruction;**
 - (3) Instruction through an electronic medium; or**
 - (4) A combination of these methods.****
- (C) A premarital education course should include instruction in:
 - (1) Conflict management;**
 - (2) Communication skills;**
 - (3) Children and parenting responsibilities; and**
 - (4) Financial responsibilities.****
- (D) A course under this section should be offered by:
 - (1) A mental-health professional who holds at least a master's degree with a background in family therapy; or**
 - (2) A religious practitioner who performs counseling consistent with the laws of this state, or another person designated as a program counselor by a church or religious institution.****

(E) Each county clerk shall maintain a roster of area course providers who meet the requirements of this section, including providers who offer the course on a sliding cost scale or without charge. The clerk shall provide a copy of the roster to any applicant for a marriage license.

(F) An applicant for a marriage license who takes a course under this section shall pay any fee charged for the course.

(G) A person who seeks to be listed as a course provider on a list maintained under Subsection (E) shall notify the county clerk of the county in which the person intends to offer a course. The notification must include the applicant's professional license number or evidence of the person's position or affiliation with a church or religious institution, as appropriate, and an address at which the course provider may be contacted.¹³

Covenant Marriage

A covenant marriage is one in which couples undertake pre-marital education and agree to more-limited grounds for divorce than are normally available. Due to these and other factors, covenant marriages provide greater security since both parties have agreed to a greater level of commitment.

Importantly, a covenant marriage may not be dissolved unless the couple has undertaken approved marriage counseling, and the couple has demonstrated that one spouse has committed adultery, been convicted of a felony, been imprisoned in a state or federal penitentiary for at least one year, left the other spouse with the intention of abandonment and remained away for at least two years, or committed family violence that resulted in a protective order being filed. A covenant marriage may also be dissolved if the couple has lived apart for a period of at least three years.

It is recommended that the Texas Family Code be amended so that the application for a marriage license provides couples with the opportunity to declare their intent to enter into a covenant marriage. Specifically, H. B. 180 (80R) by State Rep. Zedler, which makes this provision, should be supported. H.B. 180 also includes a provision that couples may designate an existing marriage as a covenant marriage, which is another important reform that will strengthen marriage in Texas.

Marriage Waiting Period

Texas Family Code (Section 2.204) holds that a marriage ceremony must not take place during the 72-hour waiting period following the issuance of a marriage license. The waiting period is important since it allows couples a final opportunity to consider their decision to wed. If this decision is reaffirmed after a significant waiting period, it is likely that both parties are sure of that decision and that the stability of their marriage will

¹³ Based on model language offered by the Institute for Marriage and Public Policy;
http://www.marriagedebate.com/ml_marriage/cat01-ml01.php

be improved as a result. In particular, fraudulent, hasty, or runaway marriages are made more difficult by the waiting period between the license being issued and the ceremony being held.

Under the federal “Brady Law” there is a five-day waiting period before an individual can purchase a handgun; the waiting period is used by law-enforcement officials to determine whether the purchaser has a criminal history that precludes him from gun ownership, but also gives the purchaser adequate time to reconsider his decision to buy a gun. By upholding a marriage waiting period that is shorter than the gun ownership waiting period, Texas is implicitly suggesting that an individual’s decision to buy a gun requires more deliberation than a decision to get married. This is disingenuous since marriage and family formation should be treated at least as significantly as gun ownership.

To give couples greater opportunity to consider their decision to wed, it is recommended that the marriage waiting period should be increased from 72 hours to at least 120 hours (five days). This would match the waiting period for gun ownership.

Property Tax Marriage Incentive

The property tax is an inequitable form of taxation that places an excessive burden on Texas property owners. Whether through rate increases, appraisal increases, or both, the property-tax burden rises without regard to the revenue needs of the taxing entities or financial situation of the taxed property owner. While this situation is undesirable, it presents a unique opportunity to create a meaningful incentive for family formation.

Property owners who are married and have resided in the same property for 10 years should qualify for property-tax relief. Specifically, when a couple has lived as husband and wife in the same property for 10 years, the Maintenance and Operations (M&O) property-tax bill for that property should be reduced by 25 percent for every subsequent year they pay tax on the property.

No-Fault Divorce

Texas should make marriage more durable by returning to a primarily fault-based system that requires the cooperation of both parties, rather than permitting a lower standard for divorce requiring only one petitioner. “No fault” divorce ought only to be permitted when there are no minor children involved, and when the total value of the “marital property” does not exceed \$100,000.

Marriage must be entered into willingly and with the consent of two people. Dissolution of marriage should require the same, with some important exceptions for physical abuse and neglect, substance abuse, infidelity, and other instances when health or physical safety is threatened. Even in these instances, however, one party to the marriage still bears fault, even if he or she does not cooperate with the divorce.

Public policy that undermines the structure of the family—such as making the process of divorce easier—does not serve to reduce the negative aspects of divorce, but only undermines the value of marriage. An article on deterring divorce from the Family Research Council argues that:

Since no-fault divorce laws make it easy for people to opt out of their marriages at any time with few or no consequences, spouses no longer have legal protection for the bond they have created in marriage ... with little or no legal protection for marriage, spouses are not given the security and incentive to devote themselves to their marriage, nor are they encouraged to be faithful to their vows. Instead, each spouse had an incentive to focus on self-preservation.¹⁴

In order to strengthen marriage, the process of divorce must be more deliberative and purposeful than the current no-fault laws. No-fault divorce provisions place an individual's right to divorce above the marriage bond. Importantly, no-fault shifts the power to the party who wants to end the marriage, and leaves the other spouse no recourse to prevent its dissolution. In short, the marriage commitment can be freely and easily revoked by either spouse at any time, without the consent of the other.

Aside from the obvious point that no-fault provisions devalue marriage and family formation, no-fault divorce is also particularly damaging to children, whose home environment can be torn apart in as little as 61 days. Numerous studies highlight the damaging effects of divorce on children, and the additional social, economic, and developmental disadvantages that living in a single-parent home can have are well-documented.

Family Code (Section 6.001) should be amended so that a no-fault divorce (termed divorce granted for reason of “insupportability”) can only be granted if the parties to the marriage are not the parents of a child under 18 years of age born or adopted during, or prior to, the marriage. In order to protect the rights of a spouse who remains committed to the marriage, even when there are no minor children, no-fault divorces should not be granted unless both parties request the divorce, or if the value of all “marital property” exceeds \$100,000.

Family Code (Section 6.001) should be amended so that it is incumbent on a petitioner for a divorce for reason of insupportability to provide evidence that the marital relationship has ended and that no reasonable possibility of reconciliation exists.

Divorce Waiting Period

In Texas, the current divorce waiting period of 60 days means that a divorce cannot be granted until at least the 60th day after divorce papers are filed. This waiting period can be an important consideration in individuals' decision to file for divorce.

¹⁴ “Deterring Divorce,” Family Research Council, June 7, 2004.

Research on divorce rates and divorce waiting periods in different states reveals that there is a clear relationship between the two. Whether the divorce rate is calculated as a rate per 1,000 population, or as an annual percentage of the number of marriages, the rate falls as divorce waiting periods rise. In states with 0-30 day divorce waiting periods, the average divorce rate is 4.63 per 1,000 population, while in states with 91-180 day waiting periods, the divorce rate is only 3.1 per 1,000 population. Maryland, which has a one-year waiting period, has a divorce rate of 3.2 per 1,000 population.

It is recommended that the divorce waiting period in Texas be increased from 60 days to one year, with the expectation that this will lower the state's divorce rate.

Section 6.702, Family Code, prohibits a court from granting a divorce until 60 days after the suit was filed. The legislature should extend that waiting period to 365 days. Furthermore, the state should require a deliberative divorce process that requires marital counseling before a suit for divorce can be filed. Current law under Section 6.505, Family Code, allows a court to require counseling for parties to the suit, as it deems appropriate. Section 6.505 should be amended to *require* marital counseling and marriage-skills education before a suit for divorce can be filed.

Importantly, the extended waiting period and marital-counseling requirement should not apply in cases of physical danger to the spouse or children.

Temporary Assistance for Needy Families (TANF)

When the Aid to Families with Dependent Children (AFDC) program began in 1935, it was primarily designed to support children whose fathers had died. By the 1970s, however, it became clear that the caseload had changed dramatically, with the majority of recipients being separated, divorced, or never married with children. Now called Temporary Assistance for Needy Families (TANF), the program has grown far beyond what it was originally contemplated to address.

The breakdown of the family and the absence of two parents have a profound fiscal impact on our communities. The ill effects of family breakdown depress the economies of families and place a significant burden on the state. Beyond the social effects of divorce and family breakdown are the fiscal costs that come when our education, protective, workforce, social-services, and juvenile-justice systems are all obligated to respond to needs caused by divorce, separation, and unmarried parents. This is more than the simple economics of marriage in the family. This is the reality of what family breakdown costs the state.

Reform of the TANF program in Texas has been among the most successful in the nation. A glance at the Texas TANF enrollment data reveals that since 2002, enrollment has fallen from 135,000 to just 82,195¹⁵—a drop of 39.5 percent. The national trend over this same four-year period reveals just a 9.6 percent decline in overall enrollment, so the achievement in Texas is clearly significant. Indeed, since the welfare reforms of the mid-1990s, enrollment on welfare programs in Texas has fallen by 70 percent.

This success is due in large part to the effectiveness of the work-activity programs in which many welfare recipients are required to participate. If the decline in TANF enrollment is to continue, and if the new welfare-to-work requirements are to be met, legislators must strive to ensure that the percentage of TANF recipients exempted from these requirements does not continue to increase.

The tradition of marriage is important in preserving America's families and in addressing the social costs that eventually become our fiscal problems when they are met through programs such as TANF. Indeed, research published by the U.S. Department of Health Assistant Secretary for Planning and Evaluation in September 2005 found that:

Low-income married-parent families are less likely than single-parent families to be eligible for public assistance programs, and once eligible, are less likely to participate.¹⁶

Specifically, the report found that only 15 percent of two-parent families earning below 200 percent of the federal poverty level were eligible for TANF, but that more than 40 percent of single parent families were TANF-eligible. Furthermore, only 35 percent of

¹⁵ Texas Workforce Commission, TANF enrollment data.

¹⁶ "Public Assistance Use Among Two-Parent Families: An Analysis of TANF and Food Stamp Program Eligibility and Participation," ASPE Research Brief, September 2005.

eligible two-parent families actually decided to enroll in TANF, whereas, among eligible single-parent families, enrollment rates approached 60 percent.¹⁷ This last statistic is very significant: Even when eligible, two-parent families are roughly half as likely as single-parent families to enroll in public-assistance programs. This is strong evidence that by encouraging marriage and family formation, the state will lessen reliance on assistance programs, which will be of benefit to low-income families and individuals as well as taxpayers. In addition, public-assistance programs will be better able to focus their resources on the individuals and families who are most in need of their support.

Furthermore, ensuring that people who receive welfare are also required to improve their prospects of securing employment—whether through training, subsidized employment, vocational education, or community service—must be a vital component of any welfare program. In this way, the need for individuals and families to rely on the state can be reduced, and ultimately, the number of people enrolled on public-assistance programs can be expected to fall over time.

Celia Hagert, a senior policy analyst at the Austin-based Center for Public Policy Priorities (CPPP), contends that “if the state chooses to push people off the program or force them to work, the bottom line is, you’re hurting a really vulnerable population. The other option is to bring more people onto the program, increase eligibility...that would have the outcome of truly helping the poor, but it would cost more money.”¹⁸ In reality, this is a false choice which echoes the now-discredited predictions made by those who argued against federal welfare reform in 1996. At that time, Congressman John Lewis (D-Ga.) predicted that the welfare reforms would “put one million more children into poverty,” and, referring to the proponents of welfare reform, he claimed that “they’re coming for the children. They’re coming for the poor. They’re coming for the sick, the elderly, and the disabled.”¹⁹

These apocalyptic pronouncements have been completely discredited by the subsequent success of welfare reforms:

After peaking in 1994—when many states began experimenting ahead of the federal law—America’s welfare caseload fell by 60 percent over the next decade, from 5m to 2m families. Instead, welfare mothers found work, and the biggest increase by far was among those who had never been married. Their employment rate leapt from 44 percent in 1993 to 66 percent in 2000 and the poverty rate, instead of rising sharply, dropped from 15.1 percent to 11.3 percent.”²⁰

CPPP and other proponents of government assistance programs continue to claim that reform of these programs has a negative impact. However, their arguments are as

¹⁷ Ibid.

¹⁸ *New Federal Welfare-to-Work Requirements May Require Retooling Texas’ Cash Assistance Program*, Austin American Statesman, July 9, 2006;

<http://www.statesman.com/news/content/news/stories/local/07/9txwelfare.html>

¹⁹ *The Wall Street Journal* editorial, May 8, 2000; <http://www.newt.org/backpage.asp?art=353>

²⁰ “America’s Welfare Reform,” *The Economist*, July 27, 2006.

baseless as those made in the mid-1990s, and should not sway policymakers from a commitment to far-reaching social service reform.

Ms. Hagert gets to the core of the issue and in doing so, she points the way forward for conservatives. The choice faced by policymakers is simply between bringing more people onto government programs and fostering a reliance on the state, or trying to help people off government programs and encouraging personal responsibility.

Welfare-to-Work

Federal welfare-to-work requirements announced in July 2006 require that at least 50 percent of all families (single parents and two parents), and 90 percent of those in two-parent families who are enrolled in TANF must be involved in a “work activity.”²¹ Acceptable activities range from job training and subsidized or unsubsidized employment, to community service, on-the-job training, or simply searching for a job for up to six weeks a year.

The biggest obstacle to a continued reduction of TANF enrollment in Texas is the large number of exemptions from these “work activity” requirements. Currently, welfare recipients are exempt from the work-activity requirement if they are 18 or younger, 60 or older, unable to work because of a disability, a single parent caring for a baby younger than 1, a caretaker of a family member with a disability or illness, or a single grandparent 50 or over caring for a child younger than three.²²

Unfortunately, the percentage of Texas TANF recipients exempted from the work-activity requirement is increasing. In 2003, only 20 percent of TANF recipients were exempt from work-activity requirements. Today, 30 percent are exempt, which represents an increase of 50 percent from 2½ years ago.²³ According to the Texas Workforce Commission, if this trend continues, the mandatory pool of TANF recipients who are not exempted from work requirements will be barely large enough to enable the state to meet its 50 percent and 90 percent work-activity participation rate targets.

Recommendations

TANF Work Activity Requirements

In 2000, the Comptroller found that a policy of “exemptions from work requirements that results in long stays on welfare may increase the likelihood that the children involved will become dependent on welfare as adults.”²⁴ The Comptroller advised that the state should

²¹ *New Federal Welfare-to-Work Requirements May Require Retooling Texas’ Cash Assistance Program*, Austin American Statesman, July 9, 2006.

²² Texas Health and Human Services Commission TANF website; <http://www.hhsc.state.tx.us/programs/TexasWorks/TANF.html>

²³ Information provided by Texas Workforce Commission.

²⁴ *Recommendations of the Texas Comptroller (Chapter 8: Health & Human Services)*; December 2000; <http://www.window.state.tx.us/etexas2001/recommend/ch08/hhs20.html>

“attempt to counter the negative effects of welfare dependency by assisting parents in avoiding welfare, increasing their earned and unearned income, and reducing barriers to their employment.” The work activities that are a requirement for those enrolled on the TANF program help to achieve each of these goals.

Therefore, exemptions to the work-activity requirements of the TANF program should be closely scrutinized to ensure that they are appropriate and that they do not hinder the successful operation of the program. It is especially important that individuals or families who would benefit from the work-activity requirements are not exempted from them. Work activities are an essential component of the TANF program because they provide enrollees with the skills and experience necessary for them to support themselves and to end a reliance on state assistance.

Marriage Preparation Courses: One Percent of TANF Funds

While promoting marriage through marriage courses and counseling has become a cornerstone of the federal discussion on promoting marriage, nothing prevents the state from funding such programs on its own. Texas should continue to lead the nation and fund these programs at the state level. TANF recipients should have the opportunity to add to the assistance they receive by completing healthy-marriage classes that give them tools needed to succeed in marriage. To be clear, this is not about blindly promoting marriage, but instead about offering families an opportunity and an incentive to receive marital counseling that will strengthen them.

This reflects the fact that TANF clients often have challenges that other populations do not have, and it is possible that many of these clients have not had these appropriate behaviors modeled for them. The figures correlating poverty and marital status illustrate how the cycle of poverty may continue if a person has not had experience in a family held together by a strong marriage.

The state should allocate TANF funds to marital education programs for TANF-eligible couples. One percent of federal TANF funds should be used to fund marriage-education courses covering issues such as communication, anger/dispute resolution, budgeting, parenting, and maintaining healthy lifestyles. TANF clients who participate in such programs would receive an additional TANF allotment.

This money should be allocated between existing programs in the Attorney General’s office and the Health and Human Services Commission. A portion of the one percent of TANF funds should be available to private, community-based entities through a competitive bidding process. Additionally, each of the TANF marriage education programs should, like all state programs, be measured for effectiveness.

Protecting Children

The evidence is unmistakable: children do better in homes with married parents.

Children in married homes are safer, less likely to be involved in risky behavior, have greater educational success, have better relationships with their family, and are more likely to form their own stable marriages. From the formative years of a child's growth and development, to having a family and being productive members of society, marriage establishes a foundation that affords children the greatest chance of success—even as they grow older. That marriage correlates so strongly with each of these characteristics only strengthens the case for marriage. In fact, given the evidence, it is questionable why anyone would not support efforts to strengthen our children by strengthening our families.

Research shows that instances of abuse and neglect are dramatically lower for children in homes with married parents. The 1999 National Crime Victimization Survey showed that children of divorced or never-married mothers are six to 30 times more likely to suffer from serious child abuse.²⁵ In addition, the Family Research Council cites a 1996 survey showing that children living with single parents have a rate of neglect two times higher than those children living with both parents, and the rate of abuse was 35 percent higher for children in single-parent homes.²⁶ And it's more than physical safety on the line:

- Regardless of sex, age, family income, race or ethnicity, adolescents not living with both parents are 50 to 150 percent more likely to use, depend, and need treatment for addiction to illicit drugs, than adolescents living with two biological or adoptive parents.²⁷
- One study of 25,000 children across the nation revealed that children living with only one parent had lower grade-point averages, lower college aspirations, poorer attendance records, and higher dropout rates compared to students who lived with both parents.²⁸
- A study of fourth-grade urban boys showed that those living in a stepfamily or with a single mother at age 10 were more than twice as likely to be arrested by age 14, than those living with their biological parents.²⁹
- Girls living with their married biological parents in eighth grade were one-third less likely to have a baby by 12th grade, than girls living in other family structures.³⁰
- National studies have shown that children with continuously married parents are half as likely to divorce, than children of divorce.³¹

²⁵ The Heritage Foundation, No.35 "Marriage: The Safest Place for Women and Children," Fagan & Johnson, October 2002.

²⁶ Family Research Council, "The Making of the Family: Family Formation Today."

²⁷ National Fatherhood Initiative; <http://www.fatherhood.org/>

²⁸ Ibid.

²⁹ Family Research Council, "The Making of the Family: Family Formation Today."

³⁰ Ibid.

³¹ Ibid.

These statistics show how divorce and out-of-wedlock births can adversely affect the emotional and physical health of children, even across similar peer groups.

Statistics show that violent criminals are overwhelmingly males that grew up without their father in the home, including 60 percent of rapists, and 72 percent of adolescents charged with murder.³² Children who are products of broken or never-married homes have a severely handicapped chance at living a healthy, free, and prosperous life. To pro-family advocates, this is no surprise; to the advocates who look to heal the scars of broken homes, this should be a wake-up call.

Many of the recommendations outlined earlier in this report aim to build stronger families by supporting marriage and making divorce a more deliberative, demanding process. As the research cited here makes clear, a married, two-parent household is the best environment in which to bring up a child. However, it is also evident that there will be situations in which this environment is not an option.

Alongside policymakers' attempts to strengthen family formation, the state also has a legitimate role to play protecting children from the negative effects of family and social breakdown. Particularly important is ensuring that both parents can play an active role in the upbringing of a child after a divorce, and that the state is able to effectively enforce child-support collections so that children are adequately supported.

Recommendations

Child Custody

Child custody regulations should be reformed so that the burden of proof for making a post-divorce change that will affect a parent's relationship with his or her child or children rests with the parent who wishes to make the change. If one parent is opposed to such a change (such as relocating with the child, or moving the child to a different school) the parent seeking the change must demonstrate that it is a response to the other parent's behavior being detrimental to the child. If this cannot be proven, the status quo must be maintained unless both parents jointly make the decision to change it.

Specifically, Family Code (Section 153.002) should be amended so that the factors used to determine the "best interests of a child" are based on those described above. In the absence of proof from one party that the behavior of the other parent will be detrimental to the child, both parents must have equal access to, custody of, and responsibility for the child.

³² National Fatherhood Initiative, <http://www.fatherhood.org/>

Child Support Collection

Numerous academic studies have established that:

1. Child-support income is more likely to be spent on children, as compared with other income;
2. Child support alters family dynamics (between mothers and fathers) in a positive way;
3. Child support reduces mothers' reliance on welfare and increases employment and marriage;
4. Mothers invest more in their children as a signal to absent fathers of their commitment to the child in order to obtain more child support in the future; and,
5. Child support is positively correlated with father-involvement and commitment to the child.³³

In November 2005, Texas Attorney General Greg Abbott expressed his concern about cuts in federal funding for child-support enforcement in Texas that arose from the Deficit Reduction Act of 2005. According to the Attorney General's office, \$3 billion in child-support collections will be lost as a result of the cuts in funding. Abbott pointed out that:

Many Texas children and families who depend on child support to furnish the basic necessities of life will suffer...This bill will seriously undermine the Texas child support program and Washington lawmakers need to fully understand the harm this legislation [will cause].³⁴

The Attorney General's Office Legislative Appropriations Request for fiscal years 2008 and 2009 calls for the federal funding cuts to the child-support program to be restored. Without this funding (\$92.5 million in 2008 and \$104.2 million in 2009), the appropriations request makes clear that "significant cuts in staff, contracted services, core operations, and future program improvements" would be inevitable.³⁵

Therefore, the funding reductions that reduce the ability of the Attorney General's Office to enforce child-support collections should be restored. Child-support payments are essentially an appropriate private source of assistance to single-parent families. Without this help, many of these families will ultimately rely on public-assistance programs and will be an additional burden on taxpayers.

³³ "The Impact of Child Support Enforcement on Fertility, Parental Investments, and Child Well-Being," Prof. Anna Aizer & Prof. Sara McLanahan, *Journal of Human Resources*, XLI 1, (2006).

³⁴ "Attorney Abbott Calls on Texas Congressional Delegation To Reject Child Support Funding Cuts," Texas Attorney General News Release, November 28, 2005.

³⁵ Office of the Texas Attorney General, Legislative Appropriations Request 2008-2009.

Adoptive and Foster Parents

According to the Institute for Marriage and Public Policy, “a broad array of social science evidence confirms that, all things being equal, children do best when raised by their own married mother and father.”³⁶ Single parents face an especially difficult task rearing children on their own, and they typically receive a high level of social support. Children raised outside of an intact marriage are more likely to encounter poverty, suffer from physical or mental illness, drop out of high school, become pregnant, commit suicide, or engage in substance abuse.³⁷ It is clear that no family structure can compete with one headed by a child’s biological parents.

Therefore, the state should ensure that when the Department of Family and Protective Services places children with foster couples, or when children are placed with adoptive parents, priority should be given to married couples.

In the case of foster parents, Family Code (Chapter 263) should be amended so that:

The Department shall place children who are in the custody of the state with any persons qualified to become foster parents, subject to the following policies:

(A) Primary consideration will be given to placement with a married couple.

(B) Single persons whose application has been submitted to the Department shall be considered only if there is no qualified married couple, except in the following circumstances:

- 1) The applicant is a legal relative of the child;**
- 2) There already exists a meaningful and healthy relationship between the applicant and the child; or**
- 3) The best interest of the child requires placement with a single parent.**

Similar language should be used to amend Family Code (Chapter 162) so that in adoption proceedings primary consideration is given to married couples unless any of the exemptions listed in subsection (B) apply.

³⁶ Institute for Marriage and Public Policy, model legislation;
<http://www.marriagedebate.com/pdf/LEGISmarr&adopt.pdf>

³⁷ “Why Marriage Matters: Twenty-One Conclusions from the Social Sciences,” William J. Doherty et al., New York: Institute for American Values, 1994.