

Private Members' Business

would accompany the litigation and with the child right in the centre. I bring this up because Bill C-232 seeks amendments to the Divorce Act which effectively would provide grandparents with independent standing to apply to the court for access to, or custody of their grandchildren at the same time the grandchildren's parents are getting a divorce.

This bill proposes that grandparents be allowed to make a custody and/or access application under the Divorce Act without being required to obtain leave of the court. Currently under the Divorce Act third parties, including grandparents, must have leave of the court to make an application for custody of or access to any or all children of the marriage. The requirement that grandparents obtain leave of the court to make application ensures that only where the truly serious disputes exist will recourse be made to the courts. In other words, it discourages the use of litigation.

I am concerned that despite its good intentions this bill, which would allow grandparents to make a custody or access application under the Divorce Act as a right, could have the effect of encouraging grandparents to formally apply for court imposed access orders. I realize this is not its primary goal; rather it is an attempt to formally recognize a grandparent's legal right to access. It may however have the unintentional effect of increasing custody and access disputes and promoting litigation. I do not believe that would be in the best interests of children because, as I mentioned earlier, the best interests standard means focusing on the needs of children rather than on the rights of adults.

I want to emphasize that I do appreciate the grandparents' overwhelming desire to ensure that they continue to see their grandchildren. We have to remember however that formal court intervention is not always required and should not be encouraged.

Surely it is preferable to encourage that arrangements for grandparent access be worked out on the basis of trust and co-operation. I believe that in many cases, indeed in the overwhelming majority of cases, regular contact between grandparents and children of a broken marriage can continue without the need for court intervention.

In my view, marriage breakdown is a traumatic personal experience for the parents and children. Children who are already experiencing the distress of a parental divorce do not need to be additionally upset by a courtroom dispute between the parents and grandparents concerning grandparent access rights.

• (1120)

Another important point which should be made is that it should be recognized there are limitations as to what a court order can accomplish and what the law can do to enforce it. It

would be ideal if a court order awarding grandparent access could ensure that meaningful access would occur without further problems. Unfortunately this is not the case.

A court cannot order people to change their attitudes, feelings or manner of relating to one another. In reality, attempts to enforce an access order often lead to more conflict and often even more litigation.

As I said earlier, I support wholeheartedly the idea that children should have continued and ongoing contact with their grandparents. However, I fear that Bill C-232 could have the effect of encouraging grandparents to formally apply for court imposed access orders. I do not think that would be in the best interests of a child. I truly believe there are more efficient and less stressful ways to work out post-divorce access arrangements without the need for court intervention.

The law is a blunt instrument. A court imposed judicially enforced order for grandparent access cannot take the place of a relationship that is allowed to occur and develop naturally.

[*Translation*]

Mrs. Pierrette Venne (Saint-Hubert, BQ): Mr. Speaker, here we are in the second hour of debate on the bill tabled by my colleague from the Reform Party. The aim of this bill is to amend the Divorce Act, by simplifying the procedure for grandparents to obtain legal custody of their grandchildren.

At the moment, grandparents wishing to obtain custody of their grandchildren must submit an initial application to the courts for leave to debate the legal custody of their grandchildren.

Grandparents are currently treated like any other interested person. All persons other than a spouse must first obtain leave from the court to apply for a custody order. Grandparents have no special status in divorce proceedings, and the aim of a preliminary application is to verify the claims by the grandparents and to decide if it is in the best interest of the child for them to intervene.

Bill C-232 would eliminate the need for grandparents to make this preliminary application and would enable them to become a party to the dispute in the same way as the spouse.

I would first like to say to this House that I am deeply saddened by the number of cases in which grandchildren lose contact with their grandparents following a divorce. Divorce proceedings are extremely stressful, and the break up of the nuclear family is traumatic for children. It can have the effect of altering their personality or behaviour. Children losing contact with their grandparents, in addition, face further hardships.

Children kept from their grandparents by mean parents, who use them to take revenge on one another, become the innocent victims in a form of hostage taking. They become the bargaining