

**STATEMENT OF
LESLEE SILVERMAN TABAS, ESQUIRE**

To: The Honorable Members of the Pennsylvania House of Representatives
Judiciary Committee re House Bills 2003 and 2562

Thank you for allowing me the honor of speaking to you today and expressing my thoughts and professional opinion regarding House Bills 2003 and 2562.

Briefly, let me state that I have devoted my practice exclusively to matrimonial law for over fifteen years. My offices are in Narberth, Montgomery County, though I practice in the metropolitan Philadelphia area. I am a Fellow of the American Academy of Matrimonial Lawyers and have been trained by the Academy to serve as a Matrimonial Arbitrator and Mediator as well. I have planned and taught many courses for the Pennsylvania Bar Institute on a broad range of Family Law topics.

I am here today in the hopes of impressing upon each of you the strength of my conviction to the opinion which I am about to set forth - that the proposed bills represent a giant step backward for all of mankind - but most importantly for the children of this Commonwealth.

Pennsylvania was one of the last states to adopt "no-fault" grounds as a means of obtaining a divorce and did so under the 1980 Divorce Code. Now, it is among the first to consider amending, even repealing no-fault grounds. This current movement is being waged under the popular rubric

of the 1990's "Family Values." With all due respect, it is my professional position as a Family Law practitioner and a Fellow of the American Academy of Matrimonial Lawyers that such proposed amendments to the current law would be a giant step backward in human rights, specifically those of life, liberty and the pursuit of happiness for all individuals, especially the children of a marriage. Forcing parties to remain married by making the divorce process more difficult - or even impossible - clearly does not encourage "family values" per se. There is so very much more which must be considered. It is this practitioner's opinion that a system allowing for a divorce with dignity promotes the concept of "family values".

Our current law provides for something which prior divorce laws did not, that is "economic justice" for a "dependant spouse." Before the 1980 Divorce Code, as amended in 1988, assets were transferred in accordance to title and the concept of equitable distribution and alimony did not exist by Court Order. In other words, it had to be "bargained for" in exchange for a release from the bonds of matrimony. Somehow, that does not seem like justice to me. The 1980 Divorce Code established Court Ordered economic benefits as well as fault and no-fault grounds for divorce.

As you are aware, currently pending are House Bills 2003 and 2562. House Bill 2003 proposes that evidence of marital misdeeds are to be heard by a judge in no-fault cases and House Bill 2562 proposes the repeal of the entire 1980 no-fault statute. Query, if these bills were to be

enacted, would they be applied retroactively or only prospectively. Would a person who married under one law now have to be subject to other standards? What about those cases presently pending - how would they be affected?

It is this practitioner's position that such amendments would further destroy "family values", perhaps even discourage the concept of marriage for many individuals, especially those children who are forced to live as part of an unhappy family unit. The proponents of the bills are citing "family values" as their motivation, yet you have heard from one of my esteemed colleagues, that both national and Pennsylvania divorce rates have barely budged since no-fault laws have gone into effect. If the primary aim is to strengthen "family values" and protect children, shouldn't that be accomplished through a system of divorce with dignity instead of one which promotes decay. Forcing parties to remain married or to buy their way out of a bad marriage does not promote a sense of "family values".

One thing which I have learned during my years as a matrimonial lawyer is that it is the children who suffer the most in the protracted, contested, litigious situations. The scars can follow them for life, if the parents selfishly focus on their own needs, instead of those of the children. This can be evidenced in cases where a parent allows their own animosity to "poison" a child against the other parent, or by forcing a child to live as part of a marriage which is a sham as the proposed

legislation would provide “no means out” short of blackmail. To me, to subject a child to an unhappy family life is a crime. It can be more damaging than allowing for a divorce with dignity as a child often learns what they live. In fact, I just heard of a fact released by the American Sociological Association yesterday stating that the divorce rate for children from divorced homes had dropped. It is my personal belief that this may be attributed in part, to no-fault divorce laws and the mitigation of damage to the children which such laws promote.

Numerous articles and authors focus on the effects of divorce on children. I propose that the effects can be minimized by keeping our current system in place rather than returning to the days of private detectives and “middling” the children in order to ascertain the activities of their parents so that fault grounds could be established. Children are entitled to so very much more than even the current system offers, but the proposed legislation is clearly not the answer.

Another possible effect of the proposed Bills is the potential to increase the current statistics of domestic violence. If couples are forced to remain intact when a marriage is clearly over, the physical and emotional effects could be devastating, thereby increasing the incidents of domestic violence.

House Bill 2003 proposes language that would allow evidence of marital misconduct to be heard by a judge in no-fault cases. It is this practitioner’s belief that this would place an undue

burden on our judges and further backlog our court system with evidence of this nature. To subject this type of sensitive testimony to the courts could encourage a level of forum shopping by a litigant in the hopes of obtaining a particular judge with preconceived concepts and values. Clearly, this is not justice. As it is, our Courts are often reluctant to hear evidence in divorce cases due to time constraints. To further broaden their responsibility in divorce matters only serves to further exacerbate the problem.

Lastly, one area which is critical in matrimonial law is that of counsel fees. Often, the economically dependent spouse “cannot compete” in divorce litigation due to his or her inability to keep up with the financially independent spouse’s ability to pay his or her attorney. To add yet another element to the court fight causes further harm to the economically dependent spouse where funds are unavailable. To dissipate marital assets to promote the battle is also not the answer. Once again, it is the children who are hurt by the expenditure of these funds, as less funds are available to meet their needs. It is the lawyers who benefit.

As can be seen, for the many reasons which I set forth above, I feel very strongly that these Bills should not be enacted and that no-fault divorce in the State of Pennsylvania should not be modified. Most importantly, when reviewing the Bills, I ask you to remember our children.

Thank you for the honor of asking me to participate today and allowing me to express my strong feelings on this most urgent issue.