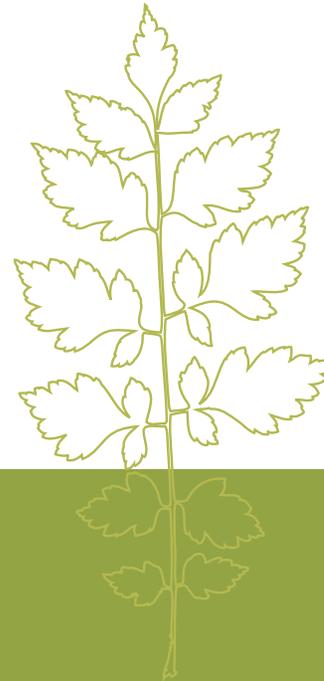


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Confronting the More Entrenched Foe: The Disaster of No-Fault Divorce and Its Legacy of Cohabitation

Michael J. McManus

WHEN RONALD REAGAN signed the nation's first No-Fault Divorce legislation as governor of California in 1969, little did he suspect that this policy innovation would lead not only to a dramatic increase in divorce rates but also a consequent plunge in marriage rates and a soaring incidence of cohabitation apart from marriage. Although Reagan later told his son Michael that imposing No-Fault Divorce on the Golden State was "one of the worst mistakes he ever made in public office,"¹ the damage was already done.

All but five states adopted the California innovation in the early 1970s, an innovation pushed primarily by legal scholars and divorce lawyers but with the support of feminists. Religious leaders remained strangely silent. But as the charts on the following pages illustrate, marriage indicators would never be the same. While the number of divorces in America increased 80 percent in the 1960s, they would soar another 86 percent between 1969 and 1980, rising from 639,000 to 1,189,000. There have been more than a million divorces every year since 1975. Put another way, for every two marriages established since 1975, about one existing marriage was dissolved.

Meanwhile, the number of marriages fell from 2.44 million in 1990 to 2.08 million in 2009, even as the nation grew by 60 million people. As

1. Michael Reagan, *Twice Adopted* (Nashville: Broadman & Holman, 2004), p. 44.

Chart 1: U.S. Marriages and Divorces

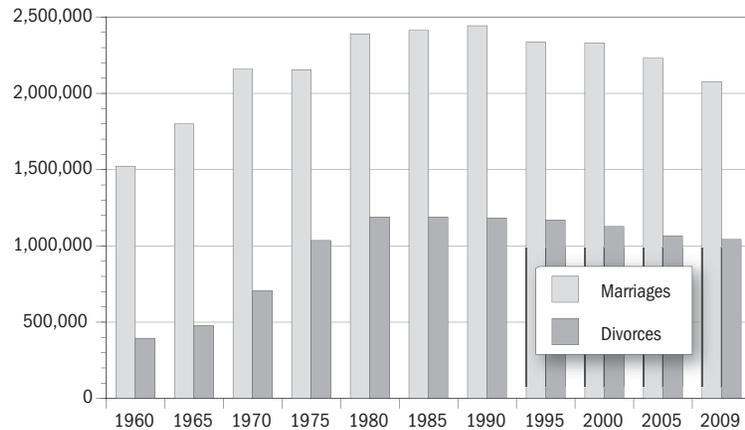
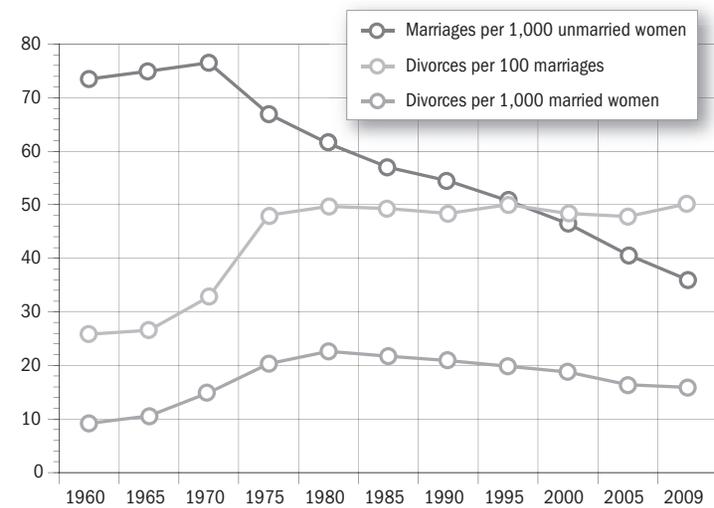


Chart 2: U.S. Marriage and Divorce Rates



Sources: Statistical Abstract of the United States, 1982-83 edition, Table 124, for years 1960 and 1965; 2001 edition, Table 116, for years 1970 to 1995. For later years, provisional data from *National Vital Statistics Reports*, 49.6 (August 22, 2001), 54.20 (July 21, 2006), and 58.25 (August 27, 2010).

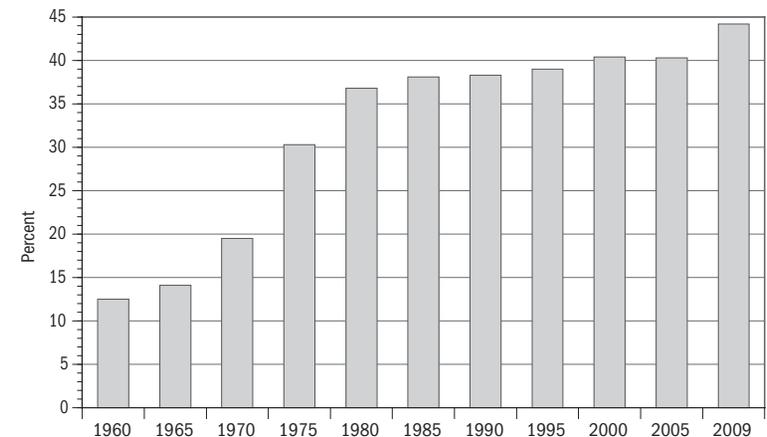
Chart 2 indicates, that decline represents a plunge in the marriage rate of 31 percent in just nineteen years, or 53 percent since 1970. Yet the divorce rate, which peaked at 22.6 divorces per 1,000 married women in 1980, remains stubbornly high. In relation to the marriage rate, the divorce rate has climbed steadily, as Chart 3 demonstrates. In fact, America’s divorce rate may be the highest in the developed world. According to Andrew Cherlin, the noted sociologist, the U.S. divorce rate is triple that of Great Britain and France. After five years of marriage, 23 percent of American couples have divorced compared to only 8 percent of British or French married couples. The U.S. divorce rate is also more than double the Canadian rate of 10 percent.²

These statistics, however, do not reveal the pain of divorce. Every divorce is the destruction of a small civilization. It imposes devastating human costs, particularly on children. As Michael Reagan, the son of Ronald Reagan and Jane Wyman, wrote of his parents’ divorce:

2. Andrew J. Cherlin, *The Marriage-Go-Round: The State of Marriage and the Family in America Today* (New York: Knopf, 2009), p. 206, Chart 3.

Chart 3: U.S. Divorce Rate Relative to the Marriage Rate

This metric measures the divorce rate as a percentage of the marriage rate.



Source: Author’s calculations based upon data from Chart 2.

Divorce is where two adults take everything that matters to a child—the child’s home, family, security, and sense of being loved and protected—and they smash it all up, leave it in ruins on the floor, then walk out and leave the child to clean up the mess.³

And what a mess it is. Children of divorced parents are three times more likely than their peers from intact homes to be expelled from school or to have a baby out of wedlock as a teenager, six times as apt to live in poverty, and are twelve times more likely to be incarcerated, according to the Heritage Foundation.⁴ Another Heritage study reports that children from fatherless homes are 15 times more likely to end up in prison, 33 times more likely to be physically abused, and 73 times more likely to be killed.⁵ Likewise, a 2010 Family Research Council study finds that children of intact, married parents live five years longer than those whose parents “rejected each other.”⁶

Nor is divorce kind to adults. According to Linda J. Waite and Maggie Gallagher, divorce dramatically elevates mortality rates. They cite evidence indicating not only that divorced men live lives that are, on average, ten years shorter than those of married men, which is nearly double the impact of having heart disease, but also that “not being married will shorten a woman’s life span by more years than would being married and having cancer or living in poverty.” They also claim that the suicide rate among divorced women is triple that of married women.⁷ Other scholars claim the suicide rate among divorced men is five times higher than among married men.⁸

3. Reagan, *Twice Adopted*, p. 37.

4. Pat Fagan and Robert Rector, “The Effects of Divorce on America,” Heritage Foundation Backgrounder No. 1373, June 5, 2000.

5. Robert Rector, “Married Fathers: America’s Greatest Weapon Against Child Poverty,” Heritage Foundation WebMemo No. 2934, June 16, 2010, <<http://www.heritage.org/research/reports/2010/06/married-fathers-americas-greatest-weapon-against-child-poverty>>.

6. Patrick A. Fagan, “The U.S. Index of Belonging and Rejection,” Research Synthesis Paper, Family Research Council, 2010, <<http://downloads.frc.org/EF/EF10L25.pdf>>.

7. Linda J. Waite and Maggie Gallagher, *A Case For Marriage: Why Married People are Happier, Healthier, and Better off Financially* (New York: Doubleday, 2000), pp. 48, 67.

8. Stephen Baskerville, *Taken Into Custody: The War Against Fathers, Marriage, and the Family* (Nashville: Cumberland House, 2007), p. 216.

The Fault of No-Fault: Unilateral Divorce

Before No-Fault Divorce, all states except Nevada required one spouse to prove the other guilty of a major fault, such as adultery or physical abuse, in order to be granted a divorce. If there was no alleged fault, and both spouses wanted the divorce, one might accuse the other spouse of adultery, who did not contest it. No one knows how many couples secured a divorce this way; however, researchers generally believed the number was relatively low. Nonetheless, legal scholars denounced the possibility of collusion between spouses, claiming they wanted to eliminate fraudulent divorce claims. With “No Fault,” no moral fault had to be alleged or contested in court to get a divorce.⁹ One spouse simply asserted the marriage had floundered on “irreconcilable differences.” As governor, Reagan apparently bought into this rationale for “reform.” As he had received a divorce from Jane Wyman that he did not want twenty years earlier, Reagan had hoped, according to his son, to make “the divorce process less acrimonious, less contentious, and less expensive.”¹⁰ None of those goals was achieved.

However, as No-Fault Divorce swept the nation in the early 1970s, state legislatures failed to consider that, in four out of five cases, one spouse opposes the divorce.¹¹ Nor did the states consider that, under No Fault, one spouse acting unilaterally could terminate a marriage that was entered into by two people voluntarily. In fact, a more appropriate name for No-Fault Divorce is Unilateral Divorce. In this respect, No Fault violates the Constitution. Article 1, Section 10, prohibits the states from passing “any Law impairing the Obligation of Contracts.” Moreover, the Fifth and Fourteenth Amendments guarantee that “no person be deprived of life, liberty or property without due process of law.” How can there be “due process” if the spouse who wants to save the marriage always loses? In a divorce, one person does lose a part of his life, such as

9. Ryan C. MacPherson, “From No-Fault Divorce to Same-Sex Marriage: The American Law Institute’s Role in Deconstructing the Family,” *The Family in America: A Journal of Public Policy* 25.2 [Spring 2011]: 125-40.

10. Reagan, *Twice Adopted*, p. 44.

11. Frank Furstenberg and Andrew Cherlin, *Divided Families: What Happens to Children When Parents Part* (Cambridge: Harvard University Press, 1991), p. 22.

regular access to his children; liberty (the ability to attend a child's play or sporting event); and most definitely, property. Yet, there is not one known case in which a divorce was denied by a state or federal court due to constitutional issues.¹²

The case of Stephen Baskerville is revealing. When his wife divorced him in 1999, he was earning \$38,000 a year as a political science professor at Howard University. Her child-support award was so generous that it cost him two-thirds of his salary, forcing him to move back into his mother's house.¹³ But he is not the only victim. Since No Fault was introduced, an estimated 38 million Americans have lost the advantages of marriage through a divorce decree they did not want. Those unhappy divorcees may blame their ex- for their situation, but the law itself is actually at fault for making it far too easy for one spouse to file for divorce.

Three Achievable No-Fault Reforms

Three reforms of No Fault have been proposed in recent years. Each demonstrates promise of reducing the divorce rate and placing the state on the side of marriage preservation rather than family destruction.

1. Mutual Consent. Since 2008, this writer has called for legislation requiring *mutual consent* for divorce for couples with minor children.¹⁴ Since divorce is so devastating to children, *both* parents should have to agree that the marriage truly is "irreconcilable." One spouse should not be able to terminate a marriage with children unilaterally. If a spouse cannot prove guilt on the part of the other spouse of a major fault (adultery or abuse), couples with children should be required to obtain the mutual consent of both spouses to divorce. Bills calling for mutual consent have been introduced in Michigan, Oklahoma, and Missouri.

Before becoming the last state to adopt No-Fault Divorce in 2010, New York required mutual consent for married parents wishing to dissolve their marriage. That mutual-consent law helped to keep the Empire

State's divorce rate among the lowest in the nation, an achievement that its legislators and governor did not apparently believe was worth preserving. In 2008, the state granted 53,200 divorces but 126,900 marriage licenses, or 41.9 divorces for every 100 marriages performed. That compares with 55.2 divorces per 100 marriages performed in neighboring New Jersey and 63.8 divorces per 100 marriages performed in Connecticut.¹⁵ These numbers suggest that a state that replaces No Fault with mutual-consent divorce could experience a drop in its divorce rate by as much as 50 percent, or the lower rate of New York compared to Connecticut, prior to New York's adoption of No Fault. Why? By requiring both spouses to agree on a divorce, the law prompted tens of thousands of couples to work out their differences, saving their marriages.

2. Parental Divorce Reduction Act. A second proposal to reform No-Fault Divorce is the Parental Divorce Reduction Act (PDRA), legislation currently being promoted in twelve states by the Coalition for Divorce Reform. This proposal would slow down the divorce process and reduce the divorce rate by not allowing married parents to divorce until they have:

- Participated in a marriage-education course on the impact of divorce on children before beginning the divorce process; and
- Waited a year before filing for divorce, during which they must have completed an additional six hours of marriage education designed for couples in crisis.

There is evidence that the "One Year Reconciliation and Reflection Period" of the PDRA would reduce divorce rates. Currently, twenty-five states allow a couple to divorce with little or no waiting period. By contrast, Maryland requires that couples filing for divorce live apart for a year, two years if it is contested. (Next year, Maryland will drop the "two-years, if contested" rule and simply impose a one-year waiting period.) Pennsylvania and Illinois also require up to two years, if the divorce is contested. Those waiting periods translate into fewer divorces. Indeed, as Chart 4 on the next page illustrates, states with significant waiting periods

12. Michael J. McManus, *Marriage Savers: Helping Your Friends and Family Avoid Divorce*, foreword by George Gallup Jr., revised edition (Grand Rapids: Zondervan, 1995), p. 273-74.

13. See Baskerville, *Taken Into Custody*. It should be noted, however, that Baskerville does not tell his personal story in his book.

14. Mike McManus, *How to Cut America's Divorce Rate in Half: A Strategy Every State Should Adopt* (Potomac, Md.: Marriage Savers, 2008).

15. *Statistical Abstract of the United States*, 2011 edition, Table 129.

Chart 4: State Waiting Periods and Divorce Rates, 2008

States with waiting periods	Waiting period	Number of divorces per 1,000 married women
New York	Six months	14.4
Pennsylvania	90 days if mutual; up to two years if contested	15.3
Illinois	Six months if mutual; two years if contested	18.0
South Carolina	One year	18.3
Maryland	One year; two years if contested	19.5
States with no or little waiting period		
Idaho	No waiting period	20.8
Delaware	No waiting period	22.0
Georgia	Thirty days	22.0
Indiana	No waiting period	22.2
Maine	No waiting period	22.5
Nevada	No waiting period	23.3
Alabama	Thirty days	25.1
Alaska	No waiting period	25.3
Wyoming	Twenty days	27.2
Oklahoma	No waiting period	27.1

Source: John Crouch, Americans for Divorce Reform

had divorce rates in 2008 that averaged about 35 percent below ten states with no or very little waiting period. These data are evidence that waiting periods reduce a state's divorce rate, as a year's delay prompts many couples to reconcile that may not have otherwise. The effects of state waiting periods are consistent with international data showing that divorce rates run much lower in Britain and France—countries with five- and six-year waiting periods for contested divorces, respectively—relative to the United States.

The downside of waiting-period laws is that states with such laws

require that couples move apart. Many separated spouses start dating, which works against reconciliation. Odds of family preservation would improve if couples were encouraged to live under the same roof. Yet the odds would drastically improve if states adopted both provisions of the PDRA. Chris Gersten, the primary organizer of the Coalition for Divorce Reform and a former deputy assistant secretary of the U.S. Department of Health and Human Services, predicts that if a state passes the proposed law, parental divorces would drop by a minimum of 30 percent within five years.¹⁶

Elements of the PDRA have surfaced in the Second Chances Act, a divorce-reform measure being considered by lawmakers in Minnesota. Like the PDRA, this proposal would require couples with children to complete a pre-filing course on the impact of divorce on children. It would also require couples filing for divorce to wait a year before terminating their marriage. However, the pending legislation would not require such couples to enroll in marriage-education classes; it would only encourage such enrollment. In any case, the bill has a good chance of passage because it was written by William Doherty, a prominent professor at the University of Minnesota, and Leah Ward Sears, the former chief justice of Georgia. Considering marriage “a core social institution,” Doherty and Sears initiated the proposal because most divorces, they note, are unnecessary: “The majority of divorces (50 to 66 percent) occur in couples who had average happiness and low levels of conflict.”¹⁷

The Second Chances Act builds upon the success of the “Minnesota Couples on the Brink Project,” an optional program Doherty developed at the behest of a Hennepin County judge that encourages parents in the divorcing process to reconsider. So far, about two-fifths of the couples that are referred to the program enter the reconciliation effort. The need for the program became evident after Doherty surveyed 2,500 parents near the end of the divorcing process, after they had taken a mandatory

16. Chris Gersten, “Why the Parental Divorce Reduction Act,” Coalition for Divorce Reform, <<http://www.divorcereform.info/index.php/Parental-Divorce-Reduction-Act/Why-the-Parental-Divorce-Reduction-Act.html>>.

17. William Doherty and Leah Ward Sears, “Second Chances: A Proposal to Reduce Unnecessary Divorce,” Institute for American Values, July 2011.

divorce-education class. He found: “About 30 percent of individual spouses believe their marriage can still be saved and have some interest in reconciliation services. In 12 percent of the couples, both spouses believe it’s still possible (yes or maybe); in about one-third of couples, one spouse believes it can be saved and the other does not.” In a tenth of couples, both “have some degree of interest in reconciliation services, and in one-third of couples, one is interested and the other is not. Summary: In about 40 percent of couples in the divorce process, one or both spouses hold some belief that their marriage could be saved.”¹⁸

3. Responsible Spouse/Fit Parent. A third alternative to No Fault calls for state laws identifying the spouse committed to saving the marriage as the *responsible spouse*. The state would give the responsible spouse half to two-thirds custody time of any children, if desired, as well as 60 to 100 percent of family assets. A judge would determine the exact split. By definition, the parent who files for divorce could not be designated as the responsible spouse because divorce harms the economic, social, and emotional welfare of children. This feature represents an improvement over the Parental Divorce Reduction Act, which avoids any assignment of moral fault or blame, but it also makes the proposal more controversial.

The primary authors of this proposal are Ron Grignol, a Virginia aerospace engineer who, after enduring a divorce he did not want, ran for the state legislature to reform No Fault, and Michael Ross, an Ohio emergency-room physician who saw how broken family life led to accidents and trauma, violence and mental illness, and child abuse. A second element of Grignol and Ross’s proposal rests on the assumption that most parents are “fit” and want the best for their children. All “fit parents” would be awarded at least one-third time with children, or five overnights every two weeks. That would more than double the present access to children of non-custodial parents, another improvement over the PDRA model.

Because of these two provisions, the Responsible Spouse/Fit Parent proposal will significantly neutralize existing incentives to divorce. Women file for two-thirds of all divorce petitions on the assumption they will get custody, even if they are guilty of adultery. But what would happen

if an unfaithful wife filing for divorce knew that her husband, who did not want a divorce, would receive 50 percent of custody time and most family assets? What if a husband, who is considering running off with another woman, learns that, after filing for divorce, he might be awarded none of his family property, rather than the standard 50 percent under No Fault? Surely, adding a cost to No Fault in lost custody and family assets might prompt a majority of divorcing spouses to reconsider.

The Hidden Legacy of No-Fault: Cohabitation

If all three reforms were adopted by every state, they would significantly reduce divorce rates. Yet these changes would not necessarily increase the marriage rate. Nor would they reverse the extensive damage imposed upon the institution of marriage by No Fault since the early 1970s. That damage includes the undermining of faith in the social ideal of what Brad Wilcox calls “marital permanency” and the ability of ordinary Americans “to invest financially and emotionally in their marriages.” No Fault, according to this sociologist, “made it more difficult for ‘good’ marriages to take root and flourish” as it “gutted marriage of its legal power to bind husband and wife.”¹⁹

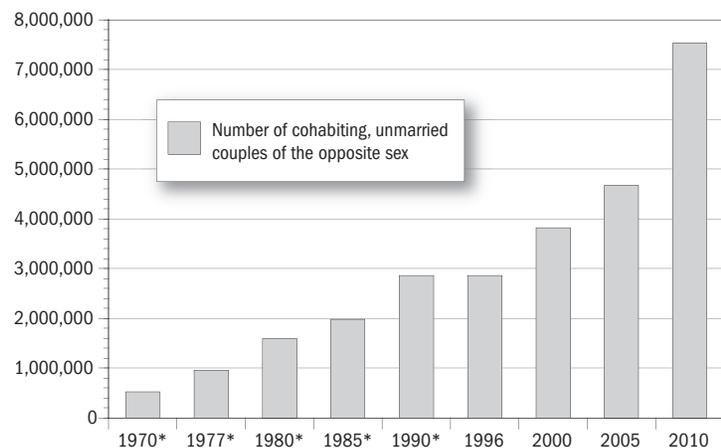
So it is not surprising, as Chart 5 reveals on the next page, that the number of unwed couples who are living together multiplied, soaring from 523,000 in 1970 to 7.5 million in 2010—more than a thirteen-fold increase—during the same period that divorces rates increased and marriage rates plunged. This upward trend in cohabitation surely has played a role in the corresponding jump in unwed births. Indeed, the percentage of cohabiting couples who have children (38 percent)²⁰ nearly matches the 41 percent of births occurring now to unwed mothers.

Driving the increase in cohabitation, in part, is the understandable fear of divorce, another consequence of the No-Fault revolution. Many young adults, especially those that have swelled the ranks of cohabiting couples during the past ten years, are the adult children of parents whose marriages were dissolved under the No-Fault regime. Having experienced

18. William Doherty, in a paper distributed at this writer’s workshop at the conference of the National Association of Relationship and Marriage Education, Houston, June 29, 2011.

19. W. Bradford Wilcox, “The Evolution of Divorce,” *National Affairs* 1 (Fall 2009): 86–87, 81.

20. U.S. Census, “America’s Families and Living Arrangements: 2010,” Table UC3, web.

Chart 5: Cohabitation Outside of Marriage

*Census Bureau estimate

Sources: U.S. Census Bureau, Current Population Survey, March and Annual Social and Economic Supplements, 2010 and earlier

their parents' divorce, many young Americans fear that if they marry, they will end up in divorce court like their mother and father. They think they can test their compatibility for marriage by living in a "trial marriage."

The thinking of these vulnerable couples seems logical, but it doesn't work in the real world. Cohabiting couples cannot practice marital permanence. This writer explodes the faulty justifications of cohabitation, as well as the myth of cohabitation as trial marriage, in *Living Together: Myths, Risks & Answers*.²¹ Cohabitation is more like a trial divorce than a trial marriage. Of the 7.5 million couples who were cohabiting outside of marriage in 2010, only about 1.4 million likely married. This estimate is collected from numerous clergymen with whom this writer has worked professionally, pastors and priests who report that as many as two-thirds of couples they marry were cohabiting. Since 2.1 million marriages took place in 2009, the two-thirds number means that about 1.4 million

21. Mike and Harriet McManus, *Living Together: Myths, Risks & Answers* (New York: Howard Books, a division of Simon & Schuster, 2008), p. 67.

couples of those who married in that year were drawn from the larger pool of cohabiting couples. But it's not simply that cohabitation offers little promise of marriage. The relatively small numbers of cohabitants who eventually marry are 61 percent more likely to divorce than those who live separately until marriage, according to a Penn State study.²²

Other data suggest that most cohabiting couples struggle to stay together; indeed, cohabiting arrangements rarely last more than two years.²³ Those break-ups, especially for women, can be as painful as divorce, prompting many to avoid commitments that would lead to marriage. Clearly, cohabitation represents a step away from marriage, not toward it, as the growing prevalence of living together mirrors the retreat from marriage. Census Bureau data reveal that in 2010, an alarming 31 percent of American adults (15 years and older) had never married. Further, the number of households headed by a married couple (58.4 million) fell short of the 50-percent mark of all households (117.5 million) in 2010, down from 71 percent in 1970.²⁴

Sorting out the relationship between No-Fault Divorce, the retreat from marriage, and the rise in cohabitation is tricky. Yet it is not difficult to understand that a recovery of marriage in America requires not only bringing down the No-Fault regime but also reversing the rise in cohabitation. After all, cohabitation represents every bit an attack on marriage as easy divorce. Given that many aspects of public policy favor or subsidize cohabitation, reversing cohabitation patterns will not be easy. But two reforms of welfare policy might be a good place to start:

Stop Subsidizing Cohabitation. At present, unwed mothers are eligible for a host of "means-tested" welfare programs including Temporary Assistance for Needy Families (TANF), food stamps, Medicaid, the Earned Income Tax Credit, and housing and daycare subsidies. According to Robert Rector of the Heritage Foundation, those benefits were worth

22. Claire M. Kamp Dush, Catherine L. Cohan, and Paul R. Amato, "The Relationship Between Cohabitation and Marital Quality and Stability: Change Across Cohorts?" *Journal of Marriage and Family* 65 (August 2003): 539-49.

23. Waite and Gallagher, *The Case for Marriage*, p. 38.

24. U.S. Census Bureau, "America's Families and Living Arrangements: 2010," Tables A1 and H1, web.

\$20,000 per year in 2004 and are given to each unwed mother on the assumption she is bringing up her child (or children) alone.²⁵ But since 2001, at least 52 percent of all unwed births have occurred within cohabiting relationships,²⁶ meaning that the typical unwed mother has the benefit of her partner's income as if she were married. When those mothers go on welfare, taxpayers end up subsidizing their cohabitation under the guise of helping the poor.

Encourage Unwed Mothers and Fathers to Marry. Given that most cohabiting unions break up short of marriage, putting the unwed mother and her children in need of almost permanent subsidies, the states should consider making marriage a condition for receiving most welfare benefits. They could offer current beneficiaries: if you marry, stay married, and agree to take courses to improve your communication and conflict-resolution skills, we will extend your benefits for a year. After the first year, benefits would be reduced by 25 percent per year. Since married men earn more than single men, most couples would not need subsidies long-term. In time, government costs would drop, saving billions of taxpayer dollars.

Moreover, states need to offer this promising deal at the entry point of the welfare system. When first applying for welfare services and benefits, the unwed mother should be asked by caseworkers whether she is living with the father. If so, she should be disqualified. Of course, some applicants will lie; but if fraud were exposed, her benefits would be terminated. However, rather than simply deny an unwed mother public assistance, the state would offer benefits under the rules outlined above. This way, states would get out of the business of subsidizing cohabitation and promote marriage instead. That would encourage many mothers and fathers to do what is best for themselves, their children, and society.

25. Robert Rector and Christine Kim, "Fiscal Distribution Analysis of Single-Parent Families in the United States, FY 2004," The Heritage Foundation, November 10, 2007.

26. Paula Y. Goodwin, William D. Mosher, and Anjani Chandra, "Marriage and Cohabitation in the United States: A Statistical Portrait Based on Cycle 6 (2002) of the National Survey of Family Growth," *Vital and Health Statistics*, Series 23, No. 28, National Center for Health Statistics, February 2010.

What Might Happen if Marriage Rates Rose?

Two years ago, the economist David Goldman brought attention to a startling statistic. "America's population," he noted, "has risen from 200 million to 300 million since 1970, while the total number of two-parent families with children is the same today as it was when Richard Nixon took office at 25 million."²⁷ This demographic reality alone justifies state efforts to promote marriage, not its competitors: divorce and cohabitation. If the state reversed course, ended the No-Fault regime, and upheld marriage as the social ideal, America would be transformed in five ways:

- Marriage rates would likely rise, reversing four decades of decline. Half of American adults would no longer live alone.
- The portion of all births that are to unwed mothers would drop, reversing a five-decade trend. More children would grow up in middle-class homes giving them a bright future under the care of two married parents.
- Taxpayer costs would drop because there would be less need for welfare programs, reducing both state and federal deficits.
- American students would perform better internationally. Students in Asia outperform U.S. students in math and science tests by wide margins, in part because the vast majority are raised by their married parents (just 2 percent of Japanese children are born out of wedlock²⁸).
- Crime, poverty, and dropout rates would also fall. As then-candidate Barack Obama noted in his 2008 Father's Day speech in Chicago, "Children who grow up without a father are five times more likely to live in poverty and commit crime, nine times more likely to drop out of school, and twenty times more likely to end up in prison."

Some critics might dismiss the reforms and strategies outlined here

27. David Goldman, "Demography and Depression," *First Things*, May 2009.

28. *Statistical Abstract of the United States*, 2010 edition, Table 1299.

with the claim, “You can’t legislate morality.” Nonsense. For forty years public policy has been legislating immorality by favoring divorce and cohabitation over marriage, and the consequences have been devastating. Moreover, the institution of marriage has been so weakened that it is vulnerable to being redefined. As much as attempts to impose same-sex marriage on the country do need to be blocked, this latest threat to marriage represents a symptom of a deeper problem, as Stephen Baskerville has argued.²⁹ A much more pressing need is reforming the No-Fault system and reversing its hidden legacy of cohabitation, putting the state on the side of marriage preservation, not marital destruction. We owe it to the next generation to give children what they need most of all: a married mother and father united in the family structure that provides the best opportunity for them to thrive. The timeless institution of marriage can be revived. Lawmakers can implement sound public policy, policy that not only protects the welfare of our most vulnerable citizens, our children, but also transforms our society into a healthy marriage culture.

Mr. McManus is president of Marriage Savers (<www.MarriageSavers.org>), a nonprofit organization based in Potomac, Maryland, that has helped clergy in more than two hundred cities and towns adopt Community Marriage Policies to reduce the incidence of divorce and cohabitation and raise marriage rates. A syndicated columnist, he is revising his 2008 book, which will be published under a new title, How To Cut America’s Divorce Rate in Half and Raise the Marriage Rate.

29. Stephen Baskerville, “Divorced from Reality: Don’t Blame the Gays for the Decline of Marriage,” *The American Conservative*, December 2010, pp. 14–16.