

## Reforms help ease marriage breakup 'sting': Walinga

Even though it might well be "the best thing to do in the long run", the break up of a marriage can pose one of the most traumatic experiences a person can face in his or her lifetime; but, as Halton lawyer Jack Walinga pointed out, recent reforms in the province's wide and varied body of legislation pertaining to marriage and the family can at least take away some of the often bitter legal sting surrounding divorce or separation.

In the second of four seminars presented by the Halton Hills Community Legal Aid Clinic at its Wesleyan Street, Georgetown office, Mr. Walinga explained that the Family Law Reform Act (1978) has "changed the concept of marriage" and legally, a marriage is a partnership.

Whether intended or not, the Act appears to support the idea that couples, married or living together in a "common law" relationship, should draft and sign a legally binding contract.

The witnessed document outlines what each spouse's duties and responsibilities are in the unfortunate event that the marriage—or partnership—collapses from death or mutual agreement.

**CONTRACT TERMS**  
Terms which might be included in the contract include support obligations, rights to property and child-rearing duties during the marriage and in the event that it falls.

There are still some things which can't be detailed in a marriage or co-habitation agreement, like who gets custody of the kids after the marriage breaks up. That's discussed and settled under a separation agreement.

Indeed, the contract is a legally binding document. Marriages, however, which are not bound by this kind of contract and suddenly face imminent destruction, are covered by other parts of the Act, which automatically "kick in" when the partnership ends, Mr. Walinga said.

While the judge hearing a separation case can settle property disputes by giving one spouse more of the "family assets" than the other, for the most part property is divided equally. A marriage contract would settle who gets the car,

the lawnmower or the Jacuzzi—the law looks at the property problem more or less as a matter of dividing up equal shares.

Once the division is done—even if part of the property may increase in value over the years—"you're stuck with it", Mr. Walinga said.

Spouses involved in the break up of a common law relationship aren't as well protected under the Act. No statutes "kick in" to settle the property disputes equitably.

But precedent setting cases suggest that if one spouse can prove that he or she has made a major investment in building up the family assets a fair share may certainly be awarded.

Although the common law relationship is again excluded from this next fact, the matrimonial home cannot be sold without the consent of each spouse, nor can it be re-mortgaged.

However, Mr. Walinga said, a judge may give one spouse exclusive possession of the home during a separation if there is some threat of a violent confrontation to decide who stays and who goes.

Support payments are another aspect of the law which has undergone a considerable amount of change recently. Usually, one thinks of support as something in a separation or divorce settlement affecting only the spouses and their children.

Now, under the Act, children can sue their parents for support and parents can sue children over the age of 18 to ensure that they have enough to live on without going on welfare.

"But you have to at least go out and try and support yourself," Mr. Walinga said.

Support and division of the property used to be based on who was the villain in the separation. Judges now pay close attention to the financial circumstances of the spouses, considering who can afford the payments and who will need them the most.

"Children are required to support their parents," he added, "especially if a child is doing extremely well."

There are support laws for people living in common law relationships. Two people living together for five years are legally considered common

law man and wife, but the arrival of youngsters at any time during the "living together" arrangement speeds things up a bit.

Suddenly, the couple are parents, and whether or not the relationship is blessed by the church or the state a kind of marriage has been formed. If it doesn't work out, someone may be liable for support payments.

Again there is one catch for common law spouses. If support claims are to be made, they must be done within a year of the separation. Married spouses can lodge a support claim against each other any time after the relationship

breaks up.

Unfortunately, the law may not succeed in overcoming obstinate human nature. A spouse can continue to go to jail for contempt of court if he or she refuses to obey a support order, although a judge can order to have the payments docked from a spouse's wages.

Tonight, legal clinic lawyer David Craig will discuss small claims court, a relatively inexpensive (cost-wise) forum in which the individual may bring a small crisis to court, possibly avoiding becoming entangled in the legal hierarchy. Seminar begins at 7:30 p.m.

## Four-day hunt irks region

The deer hunt issue which generated a storm of controversy earlier this summer may be revived today (Wednesday) as regional council protests the hunt's extension from three to four days.

Members of the region's planning and public works committee last week endorsed a recommendation formally expressing Halton's anger that the hunt has been lengthened "arbitrarily" by the province's natural resources ministry.

It took nearly two-months of intermittent debate at committee and council, as well as lobbying from pro-hunt groups countering the formidable opposition mustered by anti-hunt representatives, to pass this year's hunt proposal in July.

Under conditions attached to the resolution, the three-day hunt was approved, but only if the same number of hunters (475) are allowed to hunt in the region.

In addition, council asked for additional patrols during the hunt season at the Upper Canada College property outside of Norval, an area which, College officials maintain, saw increased trespassing by hunters last year. The Halton Agricultural Advisory Committee was also asked to

register properties where deer hunting is specifically allowed.

According to Cambridge MNR district manager W.R. Catton, the decision to go from a three-day hunt to a four-day hunt was made by the southern Ontario provincial deer committee. Another letter from the ministry, written by fish and wildlife supervisor Gary Tupling, explains that the ministry attempts to standardize hunting seasons "as much as possible".

"Halton region has received the benefit of several compromises," Mr. Tupling states in his letter, especially noting that 75 per cent of the hunters were chosen from the region. "We trust the region realizes that the province has accommodated their requests where practical and feasible."

Open only to shotgun and muzzle loading rifles (black powder), the four-day hunt will take place Nov. 2 to 5. The archery season opens Oct. 19 and runs until Dec. 13.

When council discussed the hunt recommendation submitted by the committee, ministry biologist Nancy Tilt acknowledged that the province was considering a four-day hunt. The ministry is not obliged to ask the region for permission to operate a hunt in the area or make changes to its length.

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