

The new Divorce Act: joint custody

by
ROBERT P. MAIN
When the new Divorce Act comes into effect in Canada next month it will provide for the first time the means for a court to order joint custody of children.

Custody is not a simple concept. The popular misconception is that custody refers to the issue of which parent the children will live with, after the

parents' separation. That's only one part. Custody also includes the notion of which parent is better able to provide for the child's nurturing and development, and the one better able to make decisions about the child's health, education and welfare.

Joint custody means quite simply that both parents have complete involvement in the

child's life. It is also a phrase used to refer to situations where separated parents cooperate in structuring the living accommodation of children so that they spend a substantial amount of their time with each parent.

In the past, when parents separated and tried to deal with the issue of custody of the children, joint custody

was an alternative open for them to agree on. But if the parents could not agree, and both parents claimed custody of the children in court (either under the Divorce Act or provincial legislation like Ontario's Children's Law Reform Act), the court had no power to order joint custody. In other words, the Judge had to decide a winner between the mother or father. (The only other alternative, the one considered by King Solomon, has never been a popular one in Canada.)

Thus, when the government was contemplating bringing the Divorce Act up to date, they were met with a strong lobby asking them to put joint custody into the draft bill. One parents' group went so far as to ask the government to consider amending the law to make joint custody mandatory unless one parent could succeed in proving why he should be granted sole custody of the children, such as in the case of one parent being obviously abusive, or lacking in parenting skills.

In the new Divorce Act, the government has not made joint custody mandatory, but an optional alternative for the Judge: "The court may make an order granting custody of any or all children to any one or more persons." It is the inclusion of the

simple words "or more" that makes the new scheme work.

Now we only have to wait to see how the divorce courts will interpret and apply this new section. It is hoped that joint custody will become the favoured alternative when the

parents are both caring and devoted to the best interests of their children.

Children are often the victims of their parents' separation and divorce. Hopefully, a whole new attitude towards the impact of divorce on children will emerge in

time, when parents, lawyers and judges are called upon seriously to consider that a child's best interests may best be met in keeping both parents as integral elements in her life, even after her parents' separation.

Robert P. Main, is a partner with Teskey, Heacock, Ferguson & Main and practices in the area of Family Law.

Waterfowl viewing day slated for April 20

Tiny Marsh Provincial Wildlife Area is hosting the Seventh Annual Waterfowl Viewing Day on Sunday, April 20.

Staff from the Ministry of Natural Resources, as well as volunteer expert bird-watchers will be on hand to assist visitors in enjoying this wildlife spectacle.

Each spring thousands of ducks and geese stop over at Tiny Marsh to rest and feed on their northward migration.

There may be as many as 20 different species of waterfowl seen at a time, as well as the chance to observe the multitude of songbirds located along the edge of the marsh.

Viewing stations will be set at strategic locations around the

marsh so that visitors will have an opportunity to see as many birds as possible.

At 9 a.m., and again at 2 p.m., the naturalist will be leading a hike along the trails and the dykes.

Additional highlights will include a presentation at 11 a.m. by Robin Craig and Ian Crockam on "Decoys - Old and New."

Visitors are encouraged to bring their own decoys to be evaluated by the experts. At 1 p.m., naturalist David Hawke will present a slide show on the wildlife management techniques used at Tiny Marsh.

The emphasis will be on the work of Ducks Unlimited (Canada), which has invested \$500,000 in habitat

improvement on this site.

Nature artist Ernest Somers will be displaying his watercolours of the wildlife of Tiny Marsh, a wetland which has influenced many of his works. Throughout the day a waterfowl quiz will give visitors a chance to test their identification skills.

Admission is free, so plan to stay for an hour, or the whole day. Bring binoculars, camera, lunch and boots for hiking. Tiny Marsh is located just north of Elmvale, on Tiny Township Con. 1

PGH Births

A baby boy weighing seven pounds 10 ounces was born to Mr. and Mrs. Dennis Beauchamp of 31 Don Street

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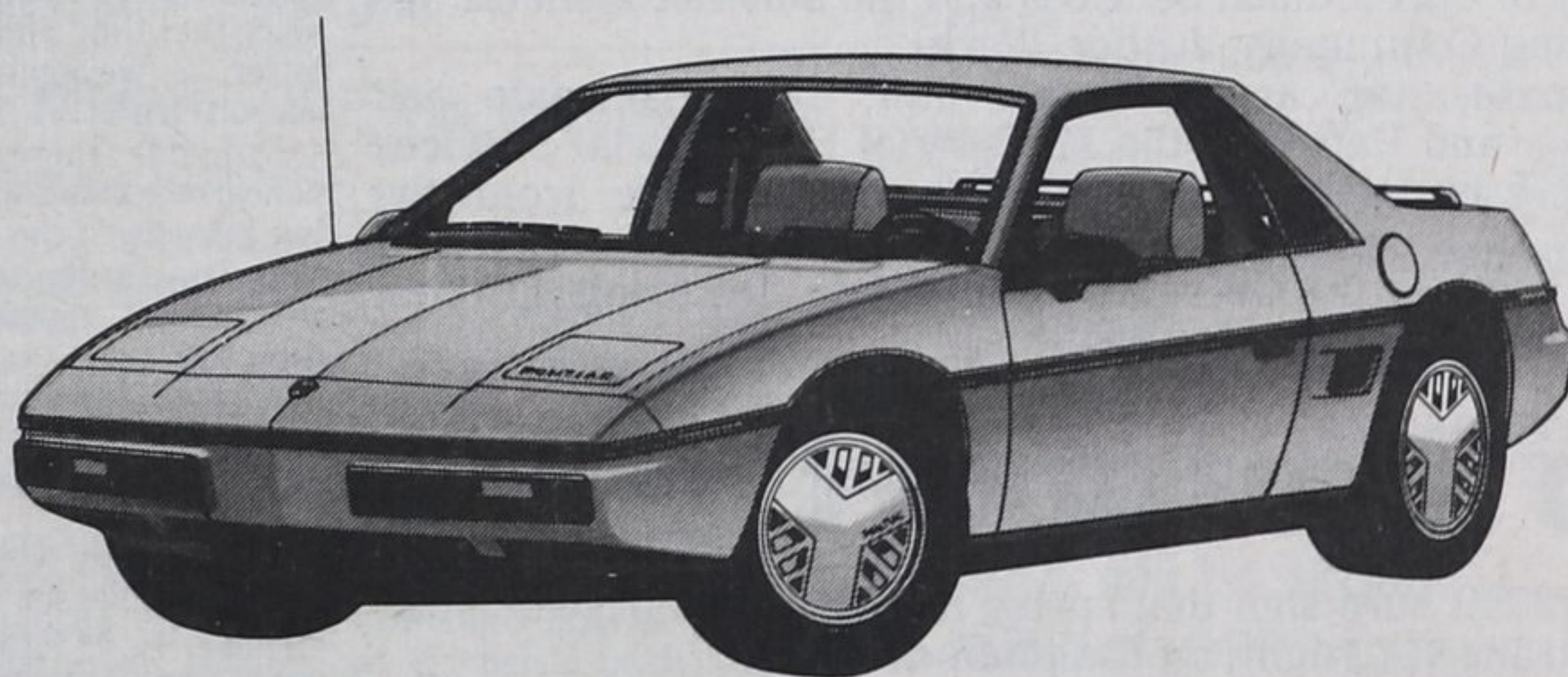
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