The Best Interest of the Dog

by Phyllis Schlafly

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The supposed standard for child custody in family courts is the "best interest of the child." The Vermont supreme court has now extended that to the best interest of the dog.

Daniel and Laura were divorcing, and the issue before the court was custody of their beloved eleven-year-old German wirehaired pointer dog Belle. Both had strong emotional ties to Belle and a record of good care. While awaiting court judgment, they made a temporary agreement to share time with the dog.

Previously, a dog was considered property to be allocated like other tangible assets such as a house and car. But this new Vermont precedent declares that the best interest of the dog should be the deciding factor.

The court found that the husband "treats the dog like a dog," while the wife treats the dog like a child. The husband is a veterinarian and has a more balanced view according to the judge's personal dog opinions, so he got sole custody of Belle. (Hament v. Baker, VT, Apr. 25, 2014, available at www.eagleforum.org/links)

Since the court treated the dog like a child in applying a "best interest" analysis, it explained the difference between child and dog custody under the law. In both cases the judge can override the rights of the adults, and even reject agreements that the couple may have signed.

The difference, according to the Vermont supreme court, is that the legislature has given the family court judge authority to play a continuing role in supervising a child's parents, but no authority to micro-manage dog care or, as the court says, "the care and sharing of a companion animal." In other words, the court treats a parent like a child, and a dog owner like an adult.

Of course, any mistreatment of a child or a dog can be prosecuted. Barring a criminal offense, a single parent has a constitutional right to rear the child as she pleases, but when a child has two legal parents, each parent loses his or her rights if the other parent brings an issue to family court.

This is one of many anti-family preferences under the law, as detailed in my latest book, "Who Killed the American Family?" Only single parents have full parental rights; others are subject to family court supervision over routine parental decisions.

In the Vermont case, the court did not allow the couple to share the dog because the judge would not have had ongoing supervision over the best interest of the dog. The couple could have extended their contract to share the dog, and enforced the contract against each other, but the judge would not have had the authority to break the contract in the interest of the dog, as he can do in the case of a child.

Asking judges to decide the best interest is causing more and more mischief. When thousands of Central American teenagers crossed our southern border this year, the chief bottleneck to sending them back was a 2008 law that gave them a right to a hearing before a judge to decide their best interest.

Using judges and bureaucrats to override parental authority used to be just a left-wing fantasy. But so many people have been bamboozled by the slogan "best interest of the child" that it is rare for conservatives to oppose it.

Nothing good ever comes from that slogan, as it is directly contrary to the rule of law and parental rights. Rule of law, as it has been understood for millennia, means that individuals can be punished only according to written laws. Vermont could pass a law against a woman treating a dog like a child, but it has not done so.

Vermont has not defined the best interest of a child or a dog but leaves it to the bias of the judges. As long as judges are supervising parents, then parents no longer have the right or authority to use their best judgment.

Marriage and family are not just being redefined to suit the gays and lesbians. They are being redefined to kill family autonomy and parental rights, and to bring child-rearing under the supervision of government so-called experts.

Many of these changes started around 1970, in response to feminist demands for liberation from marriage and unilateral divorce. Marriage has been declining ever since, and more young adults than ever will never marry.

In debates about marriage, hardly anyone makes the argument anymore that marriage is for the voluntary assumption of the rights and responsibilities of parenthood.

They say it is for tax benefits and public respectability, while the best interests of any children are decided by government busybodies.

Several other states, including New York and Alabama, have also adopted a best interest test in pet cases. That just gives more power to family court judges to impose their personal biases.

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