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## Lisa's Law

*Category: Custody & Access*

On the surface it appears to make total sense and to be absolutely defensible. It's a proposed access amendment to the Divorce Act introduced by Canadian Alliance MP Bob Mills. As proposed it would deny a parent access to his or her children if they happen to be in prison for certain criminal offences, unless the other parent approved of the visit. Such offenses would include convictions for sexual assault, incest, child pornography, as well as any crimes committed against their own children.

The proposed amendment was inspired by the case of Lisa Dillman whose physician husband was convicted and imprisoned for raping their 15 year old step-daughter. While Lisa was subsequently granted custody of her and her husband's two natural daughters following the divorce, he was granted the right to see his daughters while in prison. Lisa was ordered by the court to bring the children to the prison for the visitation. Both daughters were under two years of age at the time.

After the first visit Lisa's husband decided not to ask to see his daughters again, while he remained in prison. An act of manipulation, according to Lisa, which she believes has more to do with her husband attempting to portray himself as a caring father, rather than an act of heartfelt goodwill towards his daughters.

So what's the problem with the proposed amendment? Well, for one thing, should it be the sole responsibility of one parent to decide whether or not the other parent in prison should see his or her children? While I have sometimes been critical, as a family lawyer, of the court's reasonings in matters of deciding appropriate access, the court is at least impartial and independent and required to consider the "best interest" of the children before making its decision.

I have grave doubts about the ability of any parent to make rational and impartial access decisions in such extremely stressful and bitterly contested circumstances. Critics of the proposed law have also argued that parents could "vindictively" decide to

withhold access from the other parent.

The Canadian Bar Association has also waded into the dispute, taking the position that regular access between children and an imprisoned parent should occur, notwithstanding the nature of the criminal offence.

While this case does raise important issues, I don't believe that the proposed access changes to the Divorce Act are necessarily in the best interests of children, and I certainly don't support changes in the Divorce Act based upon one unique set of circumstances. What I do support wholeheartedly are much more important and fundamental changes to the Divorce Act which would emphasize the principles of shared parenting versus the current "winner take all" approach. Rather than focusing on Lisa's Law, let's direct our collective resources and attention on something we can all take pride in, namely, the Law of Children First. 