

New “No-Fault” Law Simplifies Getting Divorced in New York

FEATURED ATTORNEY



Steven J. Eisman

Executive Partner

Gov. David Paterson said, “Finally, New York has brought its divorce laws into the 21st century,” after recently signing into law several bills updating New York’s outdated Domestic Relations Law. The new law will take effect on October 12, 2010. With its passage, New York became the last of the fifty states in the nation to adopt “no-fault” divorce.

According to [Steven Eisman](#), a matrimonial attorney at the New York-based full service law firm of Abrams Fensterman, “Parties seeking a divorce will no longer be forced to invent false justifications to legally dissolve their marriage and will no longer have to endure a prolonged and aggravated divorce process.” Furthermore, “no-fault” divorce may reduce the overall costs of attorneys’ fees and reduce the negative impact on any children involved.

“No-fault” allows couples to obtain a divorce by mutual consent *without assigning fault to either of the parties* (i.e., without proving the requirements of the six traditional grounds for divorce). In essence, “no-fault” eliminates the issue of grounds from litigation and makes it easier to obtain a divorce; however, all other major issues (e.g., equitable distribution, spousal support, child support, counsel and expert fees and expenses, as well as custody and visitation) must first be resolved.

New York also enacted two additional reforms to protect the less-monied spouse: (i) new guidelines providing for temporary support during a divorce proceeding and the revision of the statutory factors for final or post-divorce maintenance awards to better reflect a divorcing couple’s life circumstances; and (ii) a presumption that the less-monied spouse is entitled to the payment of interim counsel fees and expert fees by the monied spouse.

The first of these provisions is intended to provide more consistency for temporary maintenance awards; the second is to enable the less-monied spouse to carry on or defend the action. The new law places the burden on the monied spouse to rebut this presumption. These laws are crucial in leveling the economic playing field in divorce actions.

For more information on New York’s new divorce laws, or other divorce and matrimonial-related issues, please feel free to contact our matrimonial and family law department in our Lake Success office at (516)

328-2300, or your attorney contact at our firm. Thank you.