

CLEMENTLAW

THE LAW OFFICES OF DANIEL E. CLEMENT

New York Divorce and Family Law Blog

[Can You Insure Against Divorce?](#)

Posted on December 15, 2009 by [Daniel Clement](#)

The success or lack of success of a marriage is apparently now statistically predictable. Since it is predictable, it may soon be possible to insure a marriage against divorce.

[MyNewMarkets.com](#) reports that [J. Christopher Westland](#), a professor of information and decision sciences, at the University of Illinois at Chicago, through an analysis of census data, has identified several factors that influence the likelihood of divorce. According to Professor Westland, the factors that put a marriage at risk include:

“Age (younger is riskier); race (Asian is the lowest risk); whether a woman had forced premarital sex (a woman who has been raped has about a 50 percent higher risk of divorcing in the first five years of marriage), and income and education (those with more have less risk).

Divorce insurance would cover the costs of divorce, presumably the legal fees and related expenses. It would not cover the terms of the settlement or the judgment.

With 50% of marriages ending in divorce, insurance companies would be paying out on half of the policies written. Therefore, the insurance would not be cheap.

Still, the question remains would a divorce insurance contract violate public policy. Contracts that promote divorce may be illegal and be unenforceable.

Even if found to be legal, divorce insurance may be an unnecessary luxury product. Pre-marriage divorce planning may be sufficient to mitigate the economic costs of divorce. Pre and post nuptial agreements can make provision for the distribution of property and the payment of maintenance. Keeping “separate property” separate from marital property will immunize it from a spouse’s equitable distribution claims. All of these precautions would minimize the legal fees in the event of divorce.