

Irreconcilable Differences Divorces Comes to New York

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Most people always assumed that just like in California and elsewhere, that in New York you could get a divorce based on irreconcilable differences. This was not true until New York enacted its new no-fault divorce law in October of 2010. Until recently, if a spouse did not have real grounds to get a divorce and the other spouse chose to contest the divorce, the spouse who wanted the divorce would have to stay married as long as they continued to live in New York. This is true. There have been several times prior to October 2010 when I have had to tell someone who wanted to get divorced that they could not get divorced if their spouse did not want the divorce. I always felt very sorry that I had to tell someone that they had to stay married to a person; but they simply did not have grounds to get a divorce in New York. What were the grounds for being able to get a divorce in New York without the other spouse's consent prior to New York's new no-fault divorce law? They were: adultery, cruel and inhuman treatment, abandonment, and imprisonment. In other words, without your spouse's consent, you could only get a divorce if your spouse cheated on you, left the marital residence and did not return, refused to have sexual relations with you for at least a year, got themselves sent to prison for several years or treated you in a cruel and inhuman manner. New York did not allow someone to divorce their spouse because they no longer loved them or could not get along with them anymore. There was one additional problem-proof. If even you thought you had one of these grounds for divorce, other than the ground of imprisonment or leaving the marital residence and not returning, the other grounds were very difficult to prove; and if you could not prove it legally even if you were certain it is true, you could not get a divorce.

After years of failed attempts, New York finally enacted a no-fault divorce law. Finally starting in October 2010, New Yorker's are able to get divorced based on irreconcilable differences. I do not mean to imply that it is a good thing that New Yorkers now more easily can get divorced. However, we are all human; and sometimes despite our best efforts and intentions, a marriage just does not work out. I do believe that it is better for two people as well as others affected by a bad marriage such as the children to be able to move on with their lives and hopefully find happiness and fulfillment elsewhere than to be forced by the law to be stuck in a marriage that is not working.

You no longer have to prove that your spouse committed adultery or refused to have sexual relations with you or was cruel and inhuman to you. While you still can get a divorce in New York based on the old grounds such as adultery, New York now allows a divorce based on an affidavit from the spouse seeking the divorce that there have been irreconcilable differences between the husband and wife for at least the last 6 months. If you have questions about New York's new no-fault divorce law or are in need of assistance in obtaining a divorce on any grounds, please contact Mitchell L. Pashkin, Esq. at (631) 351-1047 or mpash@verizon.net to set up an initial complimentary consultation regarding the divorce as well as any issues concerning child support or custody, division of assets or spousal maintenance.