

New York Divorce and Family Law Blog

[New York's New Divorce Laws](#)

Posted by [Daniel Clement](#) on October 11, 2010

This is an historic week in divorce law in New York. The recently enacted [no fault divorce law](#) becomes effective October 12, 2010. In addition to no fault divorce, three other divorce laws become effective this week including:

1. a new procedures for setting awards of temporary maintenance while a divorce is pending;
2. a procedure for reviewing and modifying child support awards; and
3. a law making it easier for the less monied spouses to receive an award of attorneys' fees during the divorce.

Here are the highlights of the new laws:

- **No Fault Divorce**

The law creates a new cause of action for divorce. Couples can now seek a divorce when the marriage has irretrievably broken down for a period of six months preceding the commencement of the divorce action.

- **Temporary Maintenance**

[The new law](#) provides that maintenance is to be awarded during the divorce when one parties' income is less than 2/3's of the other spouse's income.

The amount of maintenance is to be the lesser of a) 30% of the payor's income minus 20% of the non-payor's income or b) 40% of the combined income minus the non payor's income. ([New York Temporary Maintenance Calculator](#))

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- **Counsel Fees**

The counsel fee bill creates rebuttable presumption that the "monied" spouse should pay to the "non-monied" spouse interim counsel fees in all divorce or family law case. The purpose of the law is to "even the playing field."

- **Modification of Child Support**

The Family Court Act ("FCA") was amended to allow modification of an order of child support due to "substantial change in circumstances".

In addition, unless parties specifically opt out, the court can modify a post October 13, 2010 order where three years have passed since the last order was entered, modified, or adjusted. Substantial change in circumstances is generally defined in a change in either party's gross income by 15% or more. A reduction in income shall not be considered as a ground for modification unless it was involuntary and the party has made diligent attempts to secure employment.