

New Spousal Support Guidelines Have Taken Effect in New York

By Barbara J. King

The second phase of the recently signed divorce reform package took effect last week, setting guidelines for temporary spousal support. The formula, which determines how much the lesser earning spouse receives during the divorce process, creates a mathematical formula that judges will use when determining temporary maintenance (support paid while a divorce action is pending, previously referred to as “alimony.”

While the factors, like standard of living and earning capacity, remain essentially the same, new considerations have been added, such as domestic violence and other acts that may have prohibited one spouse from working or earning an education during the marriage.

This piece of legislation is sweeping and, some lawyers believe, could set the standard for permanent support orders. It’s no secret that one spouse often forgoes a career, education and earning potential while the other spouse advances. While this new standard is intended to level the playing field, it could have significant financial effects on the primary wage earners who often end up paying both child support and spousal support.

The other element of the divorce reform package makes New York the last state in the nation to implement no-fault divorce. That portion of the law allows married couples to split without one person taking the blame for the marriage’s failure. Prior to no-fault divorce, spouses that disagreed on terms of divorce could not end the marriage without signing a separation agreement and waiting for at least one year unless one spouse proved the other had committed acts such as cruelty, adultery or abandonment.

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