

NY Divorces Rising on Law's Anniversary - But Why?

New York's no-fault divorce law has made it faster and easier for couples to split in the two years since the law took effect.

What's less clear as of today, the law's two-year anniversary, is how much credit it should receive for an apparent rise in divorces.

Divorce filings rose 8 percent in 2011, the first full year no-fault divorce was in effect, according to statewide court data.

The tally of 64,323 divorce filings in 2011 surpassed pre-recession levels by more than 3,000. And, as of September, divorces in 2012 were on pace to creep past last year's total.

But divorce lawyers such as Barbara King were anticipating a much larger jump—if not for the sluggish economic recovery.

"If the economy was stronger, I really think you'd see the surge everyone was expecting," said King, of Tully Rinckey PLLC. "This was a pretty package that came at a time when people are saying, 'This is great, but we can't afford to be divorced right now.'"

To that point, King said she had five couples reconcile, or withdraw their divorce papers, in the first half of this year.

"A number like that is unheard of," King said. "People are a lot more cautious about divorcing right now, due to financial issues."

No-fault divorce lets couples avoid the more costly process of proving how much each spouse is to blame for a marriage's breakdown. A court can grant a divorce if one spouse declares the marriage has been "irretrievably broken" for at least six months.

New York was the only state in the nation without that avenue of ending a marriage, until Oct. 12, 2010, when its no-fault law took effect after being signed by Gov. David Paterson.

Since then, every couple Albany attorney Michelle Haskin has worked with opted for the no-fault method of obtaining a divorce.

"It's very hard to say what to make of those numbers, given what's going on with the economy. Have we been busy? Yes. But that's nothing new or different," said Haskin, shareholder and partner at McNamee Lochner Titus & Williams P.C.

"There was an initial spike right after the law passed, from people who probably had been waiting. Since then, I wouldn't say I've seen a lot more," Haskin said. "But it has assisted people, without a doubt, in avoiding issues that could have become complicated."

Under the prior divorce laws, New Yorkers had to establish fault to help determine which party received the larger settlement. The five "grounds" for divorce included adultery, abandonment

or cruel and inhuman treatment.

The only way around that was to sign a settlement agreement that resolved all issues, from child support to custody—and require the couple to live apart for at least one year before a divorce would be granted.

Both options remain in play and on the books.