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# No-Fault Divorce Likely Coming to New York

*By Mary Pilon*

Following approval from the state assembly last week, Governor David Paterson is expected to sign legislation allowing for no-fault divorce, a move that would make New York the last state in the country to remove a cumbersome requirement that forces couples to place blame on one spouse for a marriage's end.

Under the new laws, a marriage would be allowed to legally end if one spouse says under oath that the marriage has been broken beyond repair for at least six months. In the past, couples had to perform legal maneuvers like separate for a year legally, then convert to divorce to accord with state law. Others have sought jurisdiction in other states like Connecticut.

Under the current law, one spouse must claim fault for the union's ending, even if both agree the decision to split is mutual. In the other 49 states, a couple seeking divorce doesn't need to provide proof that the marriage contract was legally broken. In New York, the possible reasons for proving the grounds for divorce include inhuman treatment, adultery, abandonment or confinement of a spouse in prison, and have historically left many couples grasping at straws.

New York's holdout on the law has "became antiquated," Don Schuck, a New York-based matrimonial and family lawyer with Pryor Cashman, in New York City. "It can potentially slow down the practice of divorce when there are plenty of other issues to get to."

The no-fault provision is part of a three-bill package of overall divorce reform, which also touches on how divorce counsel is paid. Lawmakers have argued that legal costs of divorce may have caused victims of domestic violence may stay in abusive relationships. By removing the fault provisions, the hope is clients will spend less on court fees because they'll be forced to prove less in court (such as whether or not a spouse cheated).

No-fault divorce originated in the 1970s and has been adopted by states in decades since. The New York law is something that legal groups and women's groups have lobbied years for, with some religious groups opposing, concerned that it could make divorcing too easy.

Even though divorce laws vary by state, couples are free to contract prenuptial agreements should they split in most states. Those agreements can dictate what happens to finances, legal fees, pets or even penalty fees for infidelity.