

One-Page Description of Post-Marital Income Guidelines

The Lawyers Committee Against Domestic Violence urges adoption of legislation establishing guidelines for post-marital income (a new name chosen to better reflect the true nature of what is now termed “maintenance”) that will protect economically-vulnerable spouses after they are divorced.

Why is this change needed?

- **Predictability and Consistency.**
Awards made under New York’s existing maintenance statute differ widely for families that appear remarkably similar. Unlike equitable distribution and child support, which lawyers can predict with some degree of accuracy, lawyers do not know how to advise their clients about maintenance. It is the “wild card” in negotiations, impeding settlement and encouraging litigation.
- **Access for Moderate and Low Income Spouses.**
Currently, establishing a right to maintenance is so complicated it requires lengthy, expensive litigation. Most prejudiced by the existing regime are moderate and low income spouses who cannot afford to litigate. They are forced to give up legitimate claims simply because they lack resources to pursue their cases in courts. Yet maintenance is often necessary for households to avoid the financial instability that disrupts lives and subjects families to hardship and stress. Using the formulas for calculating post-marital income would be simple enough so that even litigants without access to lawyers could make a claim for maintenance.
- **Greater Equity.**
Decisions, large and small, made over the course of the marriage often have the effect of sacrificing one spouse’s ability to earn money for the benefit of the entire family. Disparities continue to exist between women’s and men’s earning power and setting guidelines to control maintenance awards would introduce greater equity. We need a fairer means of dividing economic assets.
- **Less Trauma, Cost and Delay.**
New York needs a new approach consistent with Chief Judge Judith Kaye’s call in her 2006 State of the Judiciary address for a “cultural revolution” to reduce drastically the time and the costs, both financial and emotional, of matrimonial cases. Guidelines would streamline divorce proceedings. Spouses would know how much maintenance to expect, so they could settle more easily and avoid debilitating litigation.