

## **STATEMENT OF SUPPORT FOR POST-MARITAL INCOME GUIDELINES**

Members of the Post-Marital Income Guidelines Coalition are committed to working toward passage of a law revising New York State's rules for awarding what is now called maintenance. New York needs a new approach consistent with Chief Judge Judith Kaye's call for a "cultural revolution" to reduce drastically the time and costs, both financial and emotional, of matrimonial cases.

Awards under New York's existing divorce laws are inconsistent, unpredictable, and, in far too many cases, unfair. We urge the legislature to adopt standardized guidelines for post-marital income, a new name that captures the nature of, and basis for, periodic payments by one former spouse to another after a divorce.

Currently, maintenance is the "wild card" in negotiations, impeding settlement and encouraging litigation. Standards for making awards are vague and susceptible to significantly different interpretations by judges operating without firm statutory guidance. 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 whether maintenance will be awarded and, if so, how much and for how long. The result is litigation over maintenance at considerable costs.

Most prejudiced by the existing regime are moderate and low income spouses who cannot afford lengthy, expensive litigation. 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.

We support a new approach to post-marital income that would:

- ? Make simpler and more rational the process of awarding post-marital payments by applying rules that: 1) produce a presumptive dollar amount for an award based on differences in the incomes of divorcing spouses; 2) produce a presumptive duration for an award based on the length of the marriage; 3) and allow judges to deviate from both the presumptive dollar amount and the presumptive duration of the award based on a prescribed list of factors.
- ? Assure sufficient awards to former spouses to compensate for differences in earning capacity flowing from divisions of labor during marriage and a reasonable reliance by spouses on the existence of an ongoing marital partnership.

The Coalition members ask legislators to look for guidance in formulating legislation to the *Report of the American Academy of Matrimonial Lawyers on Considerations when Determining Alimony, Spousal Support or Maintenance* (Approved by Board of Governors on March 9, 2007). The Child Support Standards Act, which has been in use by judges and lawyers for nearly two decades, also offers models for the statutory structure and language.

Establishing a sounder basis of claims for what is now called maintenance through standardized guidelines is a critical reform to our matrimonial laws. We urge New York policy makers to make the enactment of these guidelines an immediate priority.