

# WOMEN'S BAR ASSOCIATION OF THE STATE OF NEW YORK

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## Position Statement - 2010

### No Fault Divorce Legislation *Support*

The Women's Bar Association of the State of New York ("WBASNY") supports the enactment of "No Fault" divorce legislation, as set forth in Senate Bill S-3890-A, sponsored by Senator Hassell-Thompson and Assembly Bill A-9753, sponsored by Assemblyman Bing. The current law, which requires a spouse to prove adultery, abandonment or cruel and inhuman treatment in order to obtain a divorce, has forced spouses into costly and lengthy court battles, where their children often are emotionally damaged by the crossfire. This bill would permit either spouse to obtain a divorce upon a sworn statement that there has been an irretrievable breakdown in the marriage for at least six months.

This bill would not permit "Divorce on Demand" because the divorce judgment could only be granted after custody and the financial issues have been resolved or determined.

The enactment of this NO FAULT divorce bill would not prevent a spouse from presenting facts of domestic violence or other egregious fault in matters relating to custody, child support, spousal maintenance or equitable distribution.

New York is the only state requiring the court's finding of fault unless both spouses live separate and apart for one year after they have signed a written separation agreement or stipulation resolving custody and their financial issues. This requirement has a disproportionately negative impact on custodial parents, who may not be permitted to relocate with the children to a neighboring state to obtain a "no fault" divorce. Similarly, the non-monied spouse often cannot afford to relocate. In sharp contrast, the noncustodial parent and/or monied spouse can move to a neighboring state, such as Connecticut, and immediately commence a "no fault" divorce action.

Thus, the current law has a Draconian impact on victims of domestic violence who will not leave New York State without their children and who cannot afford to move or to litigate fault.

For too long, families have been financially and emotionally devastated by one spouse's refusal to give up "control" by consenting to a divorce. The time is now to enact the Hassell-Thompson/Bing No Fault Divorce bill.