



NEW YORK STATE SENATOR

Malcolm Smith

Senator Malcolm Smith Introduces No-fault Divorce Bill

MALCOLM A. SMITH May 24, 2005

State Senator Malcolm Smith (D-Queens) announced today that he has introduced a bill that would allow New Yorkers to file for a no-fault divorce based on the grounds of irreconcilable differences. "New York is the only state without some sort of no-fault divorce law, it is time to remedy this situation and amend the domestic relations law," said Senator Smith.

Currently, couples filing for divorce in New York State can claim one of four fault-based grounds for divorce: cruel and inhumane treatment, adultery, abandonment and imprisonment. Under these grounds, one spouse must be held at fault in order to receive a divorce decree. "The problems with the current system are obvious. A no-fault divorce option is a necessity in our state, allowing for couples to dissolve their marriage in a civil manner and move on with their lives," said Senator Smith.

"No-fault divorce does not undermine the institution of marriage, or damage the importance of marriage in any way. The Government should not force couples to remain in a marriage if they do not wish to do so. Research demonstrates that even 10 years after no-fault divorce laws were enacted, divorce rates were no higher than before. Furthermore, the rates of suicide, domestic violence and spousal homicide have declined in States that have enacted no-fault divorce laws," said Senator Smith.

Studies show that children are more likely to be hurt by the continued conflict between their parents than by the divorce itself. By forcing married couples to claim fault the current system provokes the parties to name call and rehash past conflicts. This is not a healthy framework in which to raise children, and it is not beneficial to either party or their children.

Chief Judge Judith Kaye, the New York State Bar Association, and the Women's Bar Association of New York support the concept of no-fault divorce. In Chief Judge Kaye's State of the Judiciary in discussing no-fault divorce, she stated "After long and careful reflection, I have come to see that requiring state 'fault' grounds may well simply intensify the bitterness between the parties, wasting resources hurting children, driving residents to other states for a divorce and delaying the inevitable dissolution of the marriage."

"It is imperative that our laws adapt to reflect our ever-changing society. I believe this bill serves a necessary purpose and I am hoping to see this issue considered this session," said Senator Smith.
