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# Proposed NY law could soon bring no-fault divorce

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\* Last state in U.S. not to allow no-fault divorce

\* Catholic Church, women's group unite in divorce debate

\* Women's advocates fear wives will lose in settlements

By [Daniel Trotta](#)

NEW YORK, June 25 (Reuters) - New Yorkers who want to end their marriages will no longer have to invent reasons under a proposed legal change that would bring the state into line with the rest of the United States by instituting no-fault divorce.

The change could be significant for the state's many wealthy residents, who would be able to focus less on manufacturing reasons for divorce and more on dividing their assets.

New York is the only state in the country that does not allow no-fault divorce, creating what divorce lawyers call institutionalized perjury by forcing couples in failing marriages to essentially lie to a judge.

The state senate has approved a bill that would permit no-fault divorce, allowing couples to cite irreconcilable differences as grounds for ending a marriage instead of having to assign blame to one party.

The state assembly, or lower house, should take up the matter in the coming weeks. Backers of the law are hopeful it will pass and reach the desk of Governor David Paterson, who is expected to support it.

California became the first state to pass no-fault divorce in 1969, and many states quickly followed.

In cases where wealthy couples must divide assets, the current law gives additional leverage to one side seeking a larger settlement.

"It (the proposed law) removes the financial incentive for one party to keep the other in a bad marriage," said divorce lawyer Paul Talbert, a partner at Chemtob Moss Forman & Talbert, LLP.

Talbert recalled representing the man in a high net worth couple stuck in a dead marriage. Their residence, the vacation home and an investment property were all in the wife's name.

"She had no incentive to get divorced because the courts have no power to divide the marital property unless there is a divorce. If she could successfully resist divorce, all three properties stayed in her name," Talbert said.

"So these people ended up spending hundreds of thousands of dollars on litigation."

In contrast to other states New York still forces one side to prove the other was at fault by one of three standards: adultery, abandonment or cruel and inhuman treatment.

Because most divorcing couples would rather avoid an expensive jury trial, or their split is unrelated to those three circumstances, New York divorce courts have become a virtual theater of the absurd with both parties and the judge often accepting blatant lies to facilitate a divorce decree.

## NO SEX

To meet the constructive abandonment standard, one side must prove the other refused requests for sex for more than a year, so couples will falsely testify, often with the judge knowingly accepting the lies, divorce lawyers say.

"In most cases it's a total fiction, either because they may have had sex but more often because the marriage has been dead for so long that they last thing either of them wanted to do was have sex with each other," said Philip Greenberg, a New York divorce lawyer for 36 years.

The Catholic Church has fought changes to the law in an effort to keep married couples together and has found an ally in the National Organization for Women (NOW), normally at odds politically with the church on issues such as abortion.

NOW says current New York law gives women leverage against husbands who would hide their assets before pursuing an easy divorce, and that it protects women who stay at home or care for children.

"Those are the people who will be at a disadvantage if their husband finally decides one day, 'I don't want you anymore. I'm divorcing you. You don't have anything to say about it'," said Marcia Pappas, president of NOW-New York State. (Reporting by Daniel Trotta; Editing by [Mark Egan](#) and Alan Elsner)