

New Spousal Support Guidelines & Other Changes in Matrimonial Law

On September 25, 2015, Governor Cuomo signed Bill A-7645-2015, which modifies the law pertaining to the duration and amount of spousal support. The new legislation will govern actions commenced 120 days after the governor signed the bill, except the amended temporary maintenance provisions will be implemented in actions commenced later this month.

Although there has been a statutory formula to calculate the presumptive amount of temporary maintenance, there was not a formula to determine the amount of post-divorce maintenance. The new legislation introduces a formula for computing the amount of post-divorce maintenance awards.

Another significant change in the legislation is the reduction of the income cap from \$543,000 to \$175,000 for purposes of calculating the presumptive amount of maintenance. An award of maintenance above the statutory income cap of \$175,000 is discretionary. The statute enumerates factors for courts to consider in exercising its discretion, including the marital standard of living, age, health, and earning capacity.

Prior statutory law failed to specify guidelines governing the duration of maintenance. In an effort to provide more stability and consistency, the new law includes the following advisory schedule pertaining to the length of maintenance payments: (i) 0 to 15 years of marriage – 15% to 30% of the length of the marriage; (ii) 15 or more to 20 years of marriage – 30% to 40% of the length of the marriage; and (iii) over 20 years of marriage – 35% to 50% of the length of the marriage.

In addition, pursuant to the new legislation, enhanced earning capacity (such as derived from a license or degree obtained during the marriage) will no longer be considered marital property subject to equitable distribution. In rendering an equitable distribution of marital property, however, a court must still consider direct and indirect contributions during the marriage to a spouse's enhanced earning capacity.

If you have any questions or would like to discuss, please call any one of us in the [Matrimonial and Family Law Practice Group](#).

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