
DIGEST

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HB 539 Engrossed

2015 Regular Session

James

Abstract: Provides for changes to the law relative to domestic abuse committed during the marriage.

Present law grounds for immediate divorce include:

- (1) Living separate and apart for a specific period of time provided by present law.
- (2) Adultery.
- (3) The commission of a felony and a sentence of death or imprisonment at hard labor.
- (4) Physical or sexual abuse of the spouse seeking divorce or a child of one of the spouses.
- (5) After a contradictory hearing or consent decree, a protective order or an injunction was issued against the other spouse to protect the spouse seeking the divorce or a child of one of the spouses from abuse.

Proposed law retains present law except that it specifies that the abuse occurred during the marriage or when a protective order was issued during the marriage.

Proposed law provides for legislative intent with respect to the grounds for an immediate divorce involving abuse or the issuance of a protective order.

Present law provides, in general, that attorney fees and costs in a divorce action are community obligations.

Proposed law provides that notwithstanding present law, the court may assess attorney fees and costs against the perpetrator of abuse in an action for divorce and in incidental actions thereafter, which shall be a separate obligation of the perpetrator, when an immediate divorce is granted in the following two cases:

- (1) Physical or sexual abuse of the spouse seeking divorce or a child of one of the spouses.
- (2) The issuance of a protective order or an injunction against the other spouse to protect the spouse seeking the divorce or a child of one of the spouses from abuse.

Present law provides that a hearing is not required when there is a demand for divorce upon the grounds that the spouses have been living separate and apart for the applicable time periods required by present law.

Proposed law extends present law to a demand for divorce when there was a protective order or injunction issued to protect one spouse or child from abuse.

(Amends C.C. Arts. 103(4) and (5) and 2362.1, C.C.P. Art. 1702(E), and R.S. 9:368)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Reinstate existing law providing that an immediate divorce is available if a protective order or injunction is granted after a consent decree during the marriage, but provides for legislative intent with respect to those consent decrees entered into prior to Aug. 1, 2014.
2. Provide that attorneys fees and court costs awarded for an immediate divorce granted pursuant to Civil Code Article 103(4) or (5) shall be a separate obligation of the perpetrator of abuse.
3. Provide that the legislative intent language applies to proposed law changes to Civil Code Article 103.