

2015 Regular Session

HOUSE BILL NO. 539

BY REPRESENTATIVES JAMES, ARMES, BARROW, BILLIOT, BOUIE, BROWN,
BURRELL, COX, HALL, HOWARD, JEFFERSON, MORENO, PRICE, SMITH,
ST. GERMAIN, AND WILLMOTT

1 AN ACT

2 To amend and reenact Civil Code Articles 103(4) and (5) and 2362.1, Code of Civil
3 Procedure Article 1702(E), and R.S. 9:368, relative to domestic abuse; to provide
4 with respect to grounds for divorce in cases of domestic abuse; to provide for the
5 confirmation of a default judgment; to provide for the obligation to pay court costs
6 and attorney fees; to provide for default judgment procedures; to provide for
7 legislative intent; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Civil Code Articles 103(4) and (5) and 2362.1 are hereby amended and
10 reenacted to read as follows:

11 Art. 103. Judgment of divorce; other grounds

12 Except in the case of a covenant marriage, a divorce shall be granted on the
13 petition of a spouse upon proof that:

14 * * *

15 (4) ~~The~~ During the marriage, the other spouse ~~has~~ physically or sexually
16 abused the spouse seeking divorce or a child of one of the spouses, regardless of
17 whether the other spouse was prosecuted for the act of abuse.

18 (5) After a contradictory hearing or consent decree, a protective order or an
19 injunction ~~has been~~ was issued during the marriage, in accordance with law, against

1 the other spouse to protect the spouse seeking the divorce or a child of one of the
2 spouses from abuse.

3 * * *

4 Art. 2362.1. Obligation incurred in an action for divorce

5 A. An obligation incurred before the date of a judgment of divorce for
6 attorney fees and costs in an action for divorce and in incidental actions is deemed
7 to be a community obligation.

8 B. Notwithstanding the provisions of Paragraph A of this Article, the court
9 may assess attorney fees and costs in an action for divorce granted pursuant to
10 Article 103(4) or (5) and in incidental actions thereafter against the perpetrator of
11 abuse, which shall be a separate obligation of the perpetrator.

12 Section 2. Code of Civil Procedure Article 1702(E) is hereby amended and reenacted
13 to read as follows:

14 Art. 1702. Confirmation of default judgment

15 * * *

16 E. Notwithstanding any other provisions of law to the contrary, when the
17 demand is for divorce under Civil Code Article 103(1) or (5), whether or not the
18 demand contains a claim for relief incidental or ancillary thereto, a hearing in open
19 court shall not be required unless the judge, in his discretion, directs that a hearing
20 be held. The plaintiff shall submit to the court an affidavit specifically attesting to
21 and testifying as to the truth of all of the factual allegations contained in the petition,
22 the original and not less than one copy of the proposed final judgment, and a
23 certification which shall indicate the type of service made on the defendant, the date
24 of service, the date a preliminary default was entered, and a certification by the clerk
25 that the record was examined by the clerk, including the date of the examination, and
26 a statement that no answer or other opposition has been filed. If no answer or other
27 pleading has been filed by the defendant, the judge shall, after two days, exclusive
28 of holidays, of entry of a preliminary default, review the affidavit, proposed final
29 judgment, and certification, render and sign the judgment, or direct that a hearing be
30 held. The minutes shall reflect rendition and signing of the judgment.

1 Section 3. R.S. 9:368 is hereby amended and reenacted to read as follows:

2 §368. Other remedies not affected

3 This Part shall in no way affect the remedies set forth in R.S. 46:2131
4 through 2142, the Criminal Code, the Children's Code, the Civil Code, or elsewhere;
5 however, the court, in any case brought under R.S. 46:2131 et seq., may impose the
6 remedies provided herein.

7 Section 4. It is the intent of this legislature in amending Civil Code Article 103 in
8 this Act to provide that the act of abuse or the issuance of a protective order issued after a
9 contradictory hearing constitutes grounds for an immediate divorce as provided in Civil
10 Code Article 103(4) or (5) if the petition for divorce was filed on or after August 1, 2014,
11 and the act of abuse or the issuance of a protective order occurred at any time during the
12 marriage. This provision has no application to protective orders or injunctions issued
13 pursuant to a consent decree prior to August 1, 2014.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____