

2020 Regular Session

HOUSE BILL NO. 236

BY REPRESENTATIVE ROBBY CARTER

DIVORCE: Provides relative to divorce

1 AN ACT

2 To amend and reenact Civil Code Article 103, relative to divorce; to provide for divorce by
3 the execution of an authentic act; to provide for certain requirements; to provide for
4 filing with the central vital records registry; to provide for the termination of the
5 community property regime; to provide relative to the procedures for partitioning
6 community property; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Civil Code Article 103 is hereby amended and reenacted to read as
9 follows:

10 Art. 103. Judgment of divorce; other grounds

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

13 (1) The spouses have been living separate and apart continuously for the
14 requisite period of time, in accordance with Article 103.1, or more on the date the
15 petition is filed.

16 (2) The other spouse has committed adultery.

17 (3) The other spouse has committed a felony and has been sentenced to death
18 or imprisonment at hard labor.

1 (4) During the marriage, the other spouse physically or sexually abused the
2 spouse seeking divorce or a child of one of the spouses, regardless of whether the
3 other spouse was prosecuted for the act of abuse.

4 (5) After a contradictory hearing or consent decree, a protective order or an
5 injunction was issued during the marriage against the other spouse to protect the
6 spouse seeking the divorce or a child of one of the spouses from abuse.

7 B.(1) Notwithstanding any other provision of law to the contrary, except in
8 the case of a covenant marriage, spouses shall be entitled to a divorce upon proof
9 that, at the time of execution of an authentic act declaring the divorce between the
10 spouses, there are no children of the marriage, there is no immovable property
11 subject to the community of acquets and gains, and the spouses suffer irreconcilable
12 differences.

13 (2) Execution of an authentic act by both spouses alleging the requirements
14 of Subparagraph (1) of this Paragraph shall constitute full proof of those
15 requirements, and, if the authentic act is filed with the central vital records registry
16 pursuant to R.S. 40:33 et seq. within fifteen days of its execution, the filing of the
17 authentic act shall be deemed a final divorce of the spouses terminating the
18 community property regime of acquets and gains as of the date of filing the authentic
19 act.

20 (3) An action to partition community property subsequent to the filing of the
21 authentic act shall be subject to the procedures set forth in R.S. 9:2801 et seq.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 236 Original

2020 Regular Session

Robby Carter

Abstract: Provides for divorce upon the execution and filing of an authentic act establishing that there are no children of the marriage, that there is no immovable property subject to the community of acquets and gains, and that the spouses suffer irreconcilable differences.

Present law provides for various grounds for divorce, including proof of the following:

- (1) The spouses have been living separate and apart continuously for the requisite period of time, in accordance with present law (Article 103.1), or more on the date the petition is filed.
- (2) The other spouse has committed adultery.
- (3) The other spouse has committed a felony and has been sentenced to death or imprisonment at hard labor.
- (4) During the marriage, the other spouse physically or sexually abused the spouse seeking divorce or a child of one of the spouses, regardless of whether the other spouse was prosecuted for the act of abuse.
- (5) After a contradictory hearing or consent decree, a protective order or an injunction was issued during the marriage 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, and provides for a divorce by the execution and filing of an authentic act declaring the divorce of the spouses, provided that at the time of execution of the authentic act declaring the divorce between the spouses, there are no children of the marriage, there is no immovable property subject to the community of acquets and gains, and the spouses suffer irreconcilable differences.

Proposed law provides that execution of an authentic act by both spouses alleging the requirements of proposed law shall constitute full proof of those requirements, and, if the authentic act is filed with the central vital records registry pursuant to present law (R.S. 40:33 et seq.) within 15 days of its execution, the filing of the authentic act shall be deemed a final divorce of the spouses.

Proposed law provides that an action to partition community property subsequent to the filing of the authentic act shall be subject to the procedures set forth in present law (R.S. 9:2801 et seq).

(Amends C.C. Art. 103)