

RÉSUMÉ DIGEST

ACT 221 (HB 539)

2015 Regular Session

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Existing law provides the following grounds for immediate divorce:

- (1) Living separate and apart for a specific period of time provided by existing 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.

New law specifies that the abuse must have occurred during the marriage or that the protective order or injunction was issued during the marriage.

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

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

New law provides that notwithstanding existing 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.

Existing 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 existing law.

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

Effective August 1, 2015.

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