
The original instrument was prepared by Jerry G. Jones. The following digest, which does not constitute a part of the legislative instrument, was prepared by Xavier Alexander.

SB 92 Engrossed

DIGEST
2017 Regular Session

Tarver

Present law relative to suits between spouses provides that spouses may not sue each other except for causes of action pertaining to contracts or arising out of the provisions of Book III, Title VI of the Civil Code; for restitution of separate property; for divorce or declaration of nullity of the marriage; and for causes of action pertaining to spousal support or the support or custody of a child while the spouses are living separate and apart.

Proposed law retains present law and adds that such interspousal immunity shall not be construed to abrogate or modify any cause of action that one spouse might have against the other. The effect is to bar the right of action that one spouse has against the other, and prescription is suspended as between spouses during the marriage. A judgment of divorce places former spouses in the same situation with respect to each other, and any cause of action by one against the other, as if no marriage had ever been contracted between them.

Present law provides that failure to bring an action for divorce pursuant to Civil Code Article 103(4) or (5) or final spousal support pursuant to Article 112(B) shall in no way affect the rights of the party to seek other remedies provided by law. Proposed law revises language to provide that the right of a party to seek any other remedy provided by law shall not be affected by the failure to bring an action for divorce pursuant to Article 103(4) or (5) or for final spousal support pursuant to Article 112(B), or by a judgment granting or dismissing an action for divorce pursuant to Article 103(4) or (5) or for final spousal support pursuant to Article 112(B).

Present law in Civil Code Article 2315.8 provides liability for damages caused by domestic abuse, including the award of exemplary damages upon proof that the injuries on which the action is based were caused by a wanton and reckless disregard for the rights and safety of a family or household member. Proposed law retains present law and extends it to dating partners. Further provides that "domestic abuse" shall be as defined in R.S. 46:2132.

Proposed law further provides that an action for damages under above present law for an act of domestic abuse is subject to a liberative prescription of three years. If the victim and defendant were married at the time of occurrence of the act, this prescription commences to run from the day their judgment of divorce becomes final and definitive. If the victim and defendant were not married at the time of occurrence of the act, this prescription commences to run from the day the injury or damage is sustained.

Proposed law further adds in Code of Evidence that in any civil action arising from an act of domestic abuse as defined in R.S. 46:2132, evidence of the commission of an act of domestic abuse, domestic abuse battery, domestic abuse aggravated assault, or sexually assaultive behavior, may be

admissible and may be considered for its bearing on any matter to which it is relevant subject to the balancing test provided in Article 403. In an action for damages, a party seeking to offer evidence shall give reasonable notice in advance of trial of the nature of such evidence. Further provides that proposed law shall not be construed to limit the admission or consideration of any evidence otherwise authorized by law.

Effective August 1, 2017.

(Amends R.S. 9:291 and C.C. Arts. 118 and 2315.8; adds C.C. Art. 3496.3 and C.E. Art. 412.5)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Changes divorce judgment to final and definitive divorce judgment.
2. Changes "offender" to "defendant."