

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S

1

SENATE BILL 518

Short Title: Healthy Marriage Act.

(Public)

Sponsors: Senators Allran (Primary Sponsor); Daniel and Sanderson.

Referred to: Rules and Operations of the Senate.

April 1, 2013

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING THE LAWS PERTAINING TO DIVORCE TO ESTABLISH A
3 TWO-YEAR WAITING PERIOD TO FILE FOR AN ABSOLUTE DIVORCE; TO
4 ALLOW A COUPLE TO LIVE TOGETHER DURING THE TWO-YEAR WAITING
5 PERIOD; AND TO REQUIRE UNDER CERTAIN CIRCUMSTANCES THAT PRIOR
6 TO FILING FOR AN ABSOLUTE DIVORCE A COUPLE COMPLETE COURSES ON
7 COMMUNICATION AND THE IMPACT OF DIVORCE ON CHILDREN.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. G.S. 50-6 reads as rewritten:

10 "§ 50-6. Divorce after ~~separation of one year~~two-year waiting period on application of
11 either party.

12 (a) Marriages may be dissolved and the parties thereto divorced from the bonds of
13 matrimony on the application of either party, ~~if and when the party~~ upon satisfying the
14 following requirements before filing for divorce under this section:

15 (1) The husband and wife have lived separate and apart for one year, and they met
16 a two-year waiting period. The spouse seeking the divorce shall give a
17 written notice of intent to file for divorce to the other spouse at the beginning
18 of the two-year waiting period. The notice of intent shall be properly
19 acknowledged in accordance with Chapter 10B of the General Statutes.
20 During the two-year waiting period, there is no requirement that the husband
21 and wife live separate and apart.

22 (2) During the two-year waiting period, the husband and wife have each
23 completed courses on (i) improving communication skills and (ii) conflict
24 resolution. Courses required by this subdivision do not have to be completed
25 together as a couple.

26 (3) If a couple has a child, the husband and wife have each completed a course
27 of at least four hours on the impact of divorce on children.

28 (b) Upon satisfying the requirements under subsection (a) of this section, a husband and
29 wife may proceed with an action for divorce by submitting to the court evidence that (i) the
30 requirements of subsection (a) of this section have been satisfied and (ii) the plaintiff or
31 defendant in the suit for divorce has resided in the State for a period of six months prior
32 to filing for divorce. A divorce under this section shall not be barred to either party by any
33 defense or plea based upon any provision of G.S. 50-7, a plea of res judicata, or a plea of
34 recrimination. Notwithstanding the provisions of G.S. 50-11, or of the common law, a divorce
35 under this section shall not affect the rights of a dependent spouse with respect to alimony
36 which have been asserted in the action or any other pending action.



1 ~~Whether there has been a resumption of marital relations during the period of separation~~
2 ~~shall be determined pursuant to G.S. 52-10.2. Isolated incidents of sexual intercourse between~~
3 ~~the parties shall not toll the statutory period required for divorce predicated on separation of~~
4 ~~one year."~~

5 **SECTION 2.** G.S. 50-8 reads as rewritten:

6 **"§ 50-8. Contents of complaint; verification; venue and service in action by nonresident;**
7 **certain divorces validated.**

8 In all actions for divorce the complaint shall be verified in accordance with the provisions
9 of Rule 11 of the Rules of Civil Procedure and G.S. 1-148. The plaintiff shall set forth in his or
10 her complaint that the complainant or defendant has been a resident of the State of North
11 Carolina for at least six months next preceding the filing of the complaint, and that the facts set
12 forth therein as grounds for divorce, except in actions for divorce from bed and board, have
13 existed to his or her knowledge for at least six months prior to the filing of the complaint:
14 Provided, however, that if the cause for divorce is ~~one-year separation~~, after a two-year waiting
15 period, then it shall not be necessary to allege in the complaint that the grounds for divorce
16 have existed for at least six months prior to the filing of the complaint; it being the purpose of
17 this proviso to permit a divorce after ~~such separation of one year~~ the two-year waiting period
18 without awaiting an additional six months for filing the complaint: Provided, further, that if the
19 complainant is a nonresident of the State action shall be brought in the county of the
20 defendant's residence, and summons served upon the defendant personally or service of
21 summons accepted by the defendant personally in the manner provided in G.S. 1A-1, Rule
22 4(j)(1). Notwithstanding any other provision of this section, any suit or action for divorce
23 heretofore instituted by a nonresident of this State in which the defendant was personally
24 served with summons or in which the defendant personally accepted service of the summons
25 and the case was tried and final judgment entered in a court of this State in a county other than
26 the county of the defendant's residence, is hereby validated and declared to be legal and proper,
27 the same as if the suit or action for divorce had been brought in the county of the defendant's
28 residence.

29 In all divorce actions the complaint shall set forth the name and age of any minor child or
30 children of the marriage, and in the event there are no minor children of the marriage, the
31 complaint shall so state. In addition, when there are minor children of the marriage, the
32 complaint shall state the social security number of the plaintiff and, if known, the social
33 security number of the defendant.

34 In all prior suits and actions for divorce heretofore instituted and tried in the courts of this
35 State where the averments of fact required to be contained in the affidavit heretofore required
36 by this section are or have been alleged and set forth in the complaint in said suits or actions
37 and said complaints have been duly verified as required by Rule 11 of the Rules of Civil
38 Procedure, said allegations so contained in said complaints shall be deemed to be, and are
39 hereby made, a substantial compliance as to the allegations heretofore required by this section
40 to be set forth in any affidavit; and all such suits or actions for divorce, as well as the judgments
41 or decrees issued and entered as a result thereof, are hereby validated and declared to be legal
42 and proper judgments and decrees of divorce.

43 In all suits and actions for divorce heretofore instituted and tried in this State on and
44 subsequent to the 5th day of April, 1951, wherein the statements, averments, or allegations in
45 the verification to the complaint in said suits or actions are not in accordance with the
46 provisions of Rule 11 of the Rules of Civil Procedure and G.S. 1-148 or the requirements of
47 this section as to verification of complaint or the allegations, statements or averments in the
48 verification contain the language that the facts set forth in the complaint are true "to the best of
49 affiant's knowledge and belief" instead of the language "that the same is true to his (or her) own
50 knowledge" or similar variation in language, said allegations, statements and averments in said
51 verifications as contained in or attached to said complaint shall be deemed to be, and are hereby

1 made, a substantial compliance as to the allegations, averments or statements required by this
2 section to be set forth in any such verifications; and all such suits or actions for divorce, as well
3 as the judgments or decrees issued and entered as a result thereof, are hereby validated and
4 declared to be legal and proper judgments and decrees of divorce. The judgment of divorce
5 shall include, where there are minor children of the parties, the social security numbers of the
6 parties."

7 **SECTION 3.** G.S. 52-10.2 is repealed.

8 **SECTION 4.** The Administrative Office of the Courts may adopt any rules deemed
9 necessary to implement the provisions of this act.

10 **SECTION 5.** This act is effective when it becomes law and applies to actions for
11 divorce filed on or after that date.