

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H.B. 867
Apr 14, 2015
HOUSE PRINCIPAL CLERK

H

D

HOUSE DRH30300-LU-71A (03/05)

Short Title: No One-Yr Separation Req/Domestic Violence.

(Public)

Sponsors: Representative Cunningham.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ELIMINATE THE REQUIRED ONE-YEAR PERIOD OF SEPARATION FOR
3 ABSOLUTE DIVORCE WHEN A PERSON IN THE MARRIAGE IS A VICTIM OF
4 DOMESTIC VIOLENCE.

5 The General Assembly of North Carolina enacts:

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

7 "§ 50-6. Divorce after separation of one year on application of either party.

8 (a) ~~Marriages~~ Except as provided in subsection (b) of this section, marriages may be
9 dissolved and the parties thereto divorced from the bonds of matrimony on the application of
10 either party, if and when the husband and wife have lived separate and apart for one year, and
11 the plaintiff or defendant in the suit for divorce has resided in the State for a period of six
12 months.

13 (b) If a person in the marriage is a victim of domestic violence, as defined under
14 G.S. 50B-1, and the person's spouse by marriage is responsible for committing that act of
15 domestic violence, the person who is the victim of domestic violence may seek a divorce
16 without having to meet the one-year period of separation. In making application for divorce
17 pursuant to this subsection, the application shall contain each of the following:

18 (1) A statement by the applicant that the applicant is a victim of domestic
19 violence.

20 (2) Evidence that the applicant is a victim of domestic violence, which evidence
21 shall include at least two of the following:

22 a. Law enforcement, court, or other federal or State agency records or
23 files.

24 b. Documentation from a domestic violence program, if the applicant is
25 alleged to be the victim of domestic violence.

26 c. Documentation from a medical or other professional from whom the
27 applicant has sought assistance in dealing with the alleged domestic
28 violence.

29 (c) A divorce under this section shall not be barred to either party by any defense or
30 plea based upon any provision of G.S. 50-7, a plea of res judicata, or a plea of recrimination.
31 Notwithstanding the provisions of G.S. 50-11, or of the common law, a divorce under this
32 section shall not affect the rights of a dependent spouse with respect to alimony which have
33 been asserted in the action or any other pending action.

34 (d) Whether there has been a resumption of marital relations during the period of
35 separation shall be determined pursuant to G.S. 52-10.2. Isolated incidents of sexual intercourse



* D R H 3 0 3 0 0 - L U - 7 1 A *

1 between the parties shall not toll the statutory period required for divorce predicated on
2 separation of one year."

3 **SECTION 2.** This act is effective when it becomes law and applies to actions
4 commenced on or after that date.