

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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S.B. 459  
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SENATE BILL DRS35171-LU-55B

Short Title: Amend 1-Yr Sep/Repeal Alien. of Aff/Crim. Con.

(Public)

Sponsors: Senators Mayfield, Fitch, and Nickel (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REDUCE THE REQUIRED PERIOD OF SEPARATION FOR ABSOLUTE DIVORCE FROM ONE YEAR TO SIX MONTHS, TO ALLOW PARTIES TO COHABITATE FOR FINANCIAL REASONS, TO WAIVE THE PERIOD OF SEPARATION FOR UNCONTESTED DIVORCES IN WHICH NO MINOR CHILDREN ARE INVOLVED, AND TO ABOLISH THE COMMON-LAW CIVIL ACTIONS OF ALIENATION OF AFFECTION AND CRIMINAL CONVERSATION.

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** G.S. 50-6 reads as rewritten:

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

Marriages may be dissolved and the parties thereto divorced from the bonds of matrimony on the application of either party, if and when the husband and wife have lived separate and apart for ~~one year, six months~~, and the plaintiff or defendant in the suit for divorce has resided in the State for a period of six months. However, the six-month period of separation may be waived upon agreement of both parties if the divorce is uncontested and does not involve minor children. A divorce under this section shall not be barred to either party by any defense or plea based upon any provision of G.S. 50-7, a plea of res judicata, or a plea of recrimination. Notwithstanding the provisions of G.S. 50-11, or of the common law, a divorce under this section shall not affect the rights of a dependent spouse with respect to alimony which have been asserted in the action or any other pending action.

Whether there has been a resumption of marital relations during the period of separation shall be determined pursuant to G.S. 52-10.2. Isolated incidents of sexual intercourse between the parties or cohabitation for financial reasons shall not toll the statutory period required for divorce predicated on separation of ~~one year, six months~~."

**SECTION 1.(b)** G.S. 50-8 reads as rewritten:

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

In all actions for divorce the complaint shall be verified in accordance with the provisions of Rule 11 of the Rules of Civil Procedure and G.S. 1-148. The plaintiff shall set forth in his or her complaint that the complainant or defendant has been a resident of the State of North Carolina for at least six months next preceding the filing of the complaint, and that the facts set forth therein as grounds for divorce, except in actions for divorce from bed and board, have existed to his or her knowledge for at least six months prior to the filing of the complaint: Provided, however, that if the cause for divorce is ~~one year~~ six-month separation, then it shall not be necessary to allege in the complaint that the grounds for divorce have existed for at least six months prior to the filing of the complaint; it being the purpose of this proviso to permit a divorce



1 after such separation of ~~one year~~ six months without awaiting an additional six months for filing  
2 the complaint: Provided, further, that if the complainant is a nonresident of the State action shall  
3 be brought in the county of the defendant's residence, and summons served upon the defendant  
4 personally or service of summons accepted by the defendant personally in the manner provided  
5 in G.S. 1A-1, Rule 4(j)(1). Notwithstanding any other provision of this section, any suit or action  
6 for divorce heretofore instituted by a nonresident of this State in which the defendant was  
7 personally served with summons or in which the defendant personally accepted service of the  
8 summons and the case was tried and final judgment entered in a court of this State in a county  
9 other than the county of the defendant's residence, is hereby validated and declared to be legal  
10 and proper, the same as if the suit or action for divorce had been brought in the county of the  
11 defendant's residence.

12 ...."

13 **SECTION 2.(a)** G.S. 52-13 is repealed.

14 **SECTION 2.(b)** Chapter 52 of the General Statutes is amended by adding a new  
15 section to read:

16 "**§ 52-14. Abolish causes of action for alienation of affection; criminal conversation.**

17 The common-law causes of action for alienation of affection and criminal conversation are  
18 abolished."

19 **SECTION 2.(c)** This section does not affect cases pending when this act becomes  
20 law.

21 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes law  
22 and applies to actions commenced on or after that date.