

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1958

By: Deevers

AS INTRODUCED

An Act relating to divorce; amending 43 O.S. 2021, Sections 101, 107.2, and 121, which relate to grounds for divorce, educational program, and division of property; modifying permissible grounds for divorce; updating statutory language; modifying requirements for certain educational program; requiring court to consider degree of fault when entering certain orders; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 43 O.S. 2021, Section 101, is amended to read as follows:

Section 101. The district court may grant a divorce for any of the following causes:

First. Abandonment including: desertion for one (1) year, habitual drunkenness, gross neglect of duty, or insanity for a period of five (5) years. In the case of insanity, the person must have been admitted to a state institution for the insane in this state or another state or a private sanitarium and received a poor prognosis for recovery. No divorce shall be granted by reason of insanity before a thorough examination of the insane person is

1 conducted by three physicians, one of whom shall be a superintendent  
2 of a state institution or sanitarium in which the insane person was  
3 admitted, and the other two shall be appointed by the court. If any  
4 two of the three physicians agree that such insane person, at the  
5 time the petition in the divorce action is filed, has a poor  
6 prognosis for recovery, a divorce shall be granted; however, no  
7 divorce shall be granted based on the provisions of this section to  
8 any person whose husband or wife is an inmate of a state institution  
9 in another state unless the person applying for such divorce shall  
10 have been a resident of this state for at least five (5) years prior  
11 to the commencement of a divorce action. A decree granted based on  
12 the provisions of this section shall not relieve the successful  
13 party from contributing to the support and maintenance of the  
14 defendant. The court shall appoint a guardian ad litem to represent  
15 the insane defendant, whose appointment shall be made at least ten  
16 (10) days before any decree is entered.

17 Second. Adultery.

18 Third. ~~Impotency.~~

19 ~~Fourth.~~ Unknown pregnancy. When the wife at the time of her  
20 marriage was pregnant by another than her husband unbeknownst to  
21 him, or when the husband at the time of his marriage had impregnated  
22 another woman other than his wife unbeknownst to her.

23 ~~Fifth.~~ Fourth. Extreme cruelty.

24 ~~Sixth.~~ Fifth. Fraudulent contract.

1       ~~Seventh. Incompatibility. Provided, however, where the~~  
2 ~~interest of a child under eighteen (18) years of age is involved,~~  
3 ~~the adult parties shall attend an educational program concerning the~~  
4 ~~impact of divorce on children as provided in subsection B of Section~~  
5 ~~107.2 of this title.~~

6       ~~Eighth. Habitual drunkenness.~~

7       ~~Ninth. Gross neglect of duty.~~

8       ~~Tenth. Imprisonment of the other party in a state or federal~~  
9 ~~penal institution under sentence thereto for the commission of a~~  
10 ~~felony at the time the petition is filed.~~

11       ~~Eleventh. Sixth. The procurement of a final divorce decree~~  
12 ~~without this state by a husband or wife which does not in this state~~  
13 ~~release the other party from the obligations of the marriage.~~

14       ~~Twelfth. Insanity for a period of five (5) years, the insane~~  
15 ~~person having been an inmate of a state institution for the insane~~  
16 ~~in the State of Oklahoma, or inmate of a state institution for the~~  
17 ~~insane in some other state for such period, or of a private~~  
18 ~~sanitarium, and affected with a type of insanity with a poor~~  
19 ~~prognosis for recovery; provided, that no divorce shall be granted~~  
20 ~~because of insanity until after a thorough examination of such~~  
21 ~~insane person by three physicians, one of whom shall be a~~  
22 ~~superintendent of the hospital or sanitarium for the insane in which~~  
23 ~~the insane defendant is confined, and the other two to be appointed~~  
24 ~~by the court before whom the action is pending, and any two of such~~

1 ~~physicians shall agree that such insane person, at the time the~~  
2 ~~petition in the divorce action is filed, has a poor prognosis for~~  
3 ~~recovery; provided, further, however, that no divorce shall be~~  
4 ~~granted on this ground to any person whose husband or wife is an~~  
5 ~~inmate of a state institution in any other than the State of~~  
6 ~~Oklahoma, unless the person applying for such divorce shall have~~  
7 ~~been a resident of the State of Oklahoma for at least five (5) years~~  
8 ~~prior to the commencement of an action; and provided further, that a~~  
9 ~~decree granted on this ground shall not relieve the successful party~~  
10 ~~from contributing to the support and maintenance of the defendant.~~  
11 ~~The court shall appoint a guardian ad litem to represent the insane~~  
12 ~~defendant, which appointment shall be made at least ten (10) days~~  
13 ~~before any decree is entered.~~

14 SECTION 2. AMENDATORY 43 O.S. 2021, Section 107.2, is  
15 amended to read as follows:

16 Section 107.2. A. ~~Except as provided in subsection B of this~~  
17 ~~section, in~~ In all actions for divorce, separate maintenance,  
18 guardianship, paternity, custody or visitation, including  
19 modifications or enforcements of a prior court order, where the  
20 interest of a child under eighteen (18) years of age is involved,  
21 the court may require all adult parties to attend an educational  
22 program concerning, as appropriate, the impact of separate parenting  
23 and coparenting on children, the implications for visitation and  
24 conflict management, development of children, separate financial

1 responsibility for children and such other instruction as deemed  
2 necessary by the court. The program shall be educational in nature  
3 and not designed for individual therapy.

4 ~~B. In actions for divorce based upon incompatibility filed on~~  
5 ~~or after November 1, 2014, where the interest of a child under~~  
6 ~~eighteen (18) years of age is involved, the adult parties shall~~  
7 ~~attend, either separately or together, an educational program~~  
8 ~~concerning the impact of divorce on children. The An educational~~  
9 program shall include the following components:

10 1. Short-term and longitudinal effects of divorce on child  
11 well-being;

12 2. Reconciliation as an optional outcome;

13 3. Effects of family violence;

14 4. Potential child behaviors and emotional states during and  
15 after divorce including information on how to respond to the child's  
16 needs;

17 5. Communication strategies to reduce conflict and facilitate  
18 cooperative coparenting; and

19 6. Area resources, including but not limited to nonprofit  
20 organizations or religious entities available to address issues of  
21 substance abuse or other addictions, family violence, behavioral  
22 health, individual and couples counseling, and financial planning.

23 Program attendees shall be required to pay a fee of not less  
24 than Ten Dollars (\$10.00) and not more than Sixty Dollars (\$60.00)

1 to the program provider to offset the costs of the program. The fee  
2 may be waived by the court if an attendee uses a qualified program  
3 that is provided free of charge. Nothing in this paragraph shall  
4 prohibit a third party from paying the fee to the program provider  
5 for an attendee. A certificate of completion shall be issued upon  
6 satisfying the attendance and fee requirements of the program, and  
7 the certificate of completion shall be filed with the court. The  
8 program provider shall carry general liability insurance and  
9 maintain an accurate accounting of all business transactions and  
10 funds received in relation to the program. The program shall be  
11 completed prior to the temporary order or within forty-five (45)  
12 days of receiving a temporary order. However, and in all events, a  
13 final disposition of child custody shall not be granted until the  
14 parties complete the program required by this subsection. The court  
15 may waive attendance of the program for good cause shown which shall  
16 include, but not be limited to, where domestic violence, stalking or  
17 harassment as defined by paragraph 2 of subsection I of Section 109  
18 of this title occurred during the marriage.

19 C. Each judicial district may adopt its own local rules  
20 governing the programs.

21 D. The Administrative Office of the Courts may enter into a  
22 memorandum of understanding with a state entity or other  
23 organization in order to compile data including but not limited to  
24 the number of actions for divorce that were dismissed after  
25

1 participating in the program, the number of programs that were  
2 completed and the number of program participants for each fiscal  
3 year. The report shall include data collected from each judicial  
4 district. The report shall be published on the Administrative  
5 Office of the Courts website and distributed to the Governor,  
6 Speaker of the House of Representatives, Minority Leader of the  
7 House of Representatives, President Pro Tempore of the Senate and  
8 Minority Leader of the Senate.

9 SECTION 3. AMENDATORY 43 O.S. 2021, Section 121, is  
10 amended to read as follows:

11 Section 121. A. When a dissolution of marriage is granted, the  
12 decree shall restore:

13 1. To the wife her maiden or former name, if her name was  
14 changed as a result of the marriage and if she so desires; and

15 2. To the husband his former name, if his name was changed as a  
16 result of the marriage and if he so desires.

17 B. The court shall enter its decree confirming in each spouse  
18 the property owned by him or her before marriage and the undisposed-  
19 of property acquired after marriage by him or her in his or her own  
20 right. Either spouse may be allowed such alimony out of real and  
21 personal property of the other as the court shall think reasonable,  
22 having due regard to the value of such property at the time of the  
23 dissolution of marriage. Alimony may be allowed from real or  
24 personal property, or both, or in the form of money judgment,

1 payable either in gross or in installments, as the court may deem  
2 just and equitable. As to such property, whether real or personal,  
3 which has been acquired by the parties jointly during their  
4 marriage, whether the title thereto be in either or both of said  
5 parties, the court shall, subject to a valid antenuptial contract in  
6 writing, make such division between the parties as may appear just  
7 and reasonable, by a division of the property in kind, or by setting  
8 the same apart to one of the parties, and requiring the other  
9 thereof to be paid such sum as may be just and proper to effect a  
10 fair and just division thereof. The court may set apart a portion  
11 of the separate estate of a spouse to the other spouse for the  
12 support of the children of the marriage where custody resides with  
13 that spouse. In all orders entered pursuant to this section, the  
14 court may consider the degree of harm caused by a party, or both  
15 parties, held at fault for the dissolution of the marriage.

16 C. A servicemember's portion of Special Monthly Compensation  
17 (SMC) awarded by or from the United States Department of Veterans  
18 Affairs for service-connected loss or loss of use of specific organs  
19 or extremities shall be separate property, not divisible as a  
20 marital asset nor as community property. For purposes of  
21 identifying SMC, it is the sole responsibility of the servicemember  
22 to prove with competent evidence what amount of his or her  
23 disability compensation is SMC.

1 D. A servicemember's portion of Combat-Related Special  
2 Compensation (CRSC) shall be separate property, not divisible as a  
3 marital asset nor as community property, if a specific dollar amount  
4 of CRSC can be proved by the servicemember as compensation for  
5 combat-related loss of limb or loss of bodily function and the CRSC  
6 award was applied for and established prior to the date of the  
7 filing of the dissolution of marriage action.

8 E. Pursuant to the federal Uniformed Services Former Spouses'  
9 Protection Act, 10 U.S.C., Section 1408, a court may treat  
10 disposable retired or retainer pay payable to a military member  
11 either as property solely of the member or as property of the member  
12 and the spouse of the member. If a state court determines that the  
13 disposable retired or retainer pay of a military member is the sole  
14 and separate property of the military member, the court shall submit  
15 clear and concise written findings of such determination to be  
16 included in the decree or final order. If a state court determines  
17 that the disposable retired or retainer pay of a military member is  
18 marital property, the court shall submit clear and concise written  
19 findings of such determination to be included in the decree or final  
20 order and shall award an amount consistent with the rank, pay grade,  
21 and time of service of the member at the date of the filing of the  
22 petition, unless the court finds a more equitable date due to the  
23 economic separation of the parties.

1 F. Unless otherwise agreed to by the parties, any division of  
2 an active duty military member's retirement or retainer pay shall  
3 use the following language:

4 "The former spouse is awarded a percentage of the member's  
5 disposable military retired pay, to be computed by multiplying fifty  
6 percent (50%) times a fraction, the numerator of which is \_\_\_\_x\_\_\_\_  
7 months of marriage during the member's creditable military service,  
8 divided by the member's total number of months of creditable  
9 military service."

10 G. In the case of a member's retiring from reserve duty, unless  
11 otherwise agreed by the parties, any division of a reservist's  
12 retirement or retainer pay shall use the following language:

13 "The former spouse is awarded a percentage of the member's  
14 disposable military retired pay, to be computed by multiplying fifty  
15 percent (50%) times a fraction, the numerator of which is  
16 \_\_X\_\_ reserve retirement points earned during the period of the  
17 marriage, divided by the member's total number of reserve retirement  
18 points earned."

19 SECTION 4. This act shall become effective November 1, 2024.

21 59-2-3306 TEK 1/18/2024 1:15:52 PM