

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1066

Short Title: Amend Divorce Law.

(Public)

Sponsors: Representatives Davis; and Aldridge.

Referred to: Judiciary II.

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND THE DIVORCE LAW TO ALLOW A PARTY TO OBJECT TO
THE DIVORCE IF THERE ARE MINOR CHILDREN.

The General Assembly of North Carolina enacts:

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

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

Except as otherwise provided in this section, ~~Marriages~~ 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, and the plaintiff or defendant in the suit for divorce has resided in the State for a period of six months. 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. This section shall not apply if there are minor children born of the parties, born of either party and adopted by the other, or adopted by both parties, and either party files a written objection to the granting of the divorce. A written objection must be filed within 21 days of service of the initial pleading requesting a divorce under this section in the court in which the initial pleading was filed. If an objection is timely filed, then a divorce may be granted under this section only if the objecting party:

(1) Abandons his or her family.

(2) Maliciously turns the other out-of-doors.

- 1 (3) By cruel or barbarous treatment endangers the life of the other. In
2 addition, the court may grant the victim of the treatment the remedies
3 available under G.S. 50B-1, et seq.
4 (4) Offers such indignities to the person of the other as to render his or her
5 condition intolerable and life burdensome.
6 (5) Becomes an excessive user of alcohol or drugs so as to render the
7 condition of the other spouse intolerable and the life of that spouse
8 burdensome.
9 (6) Commits adultery.

10 Notwithstanding the provisions of G.S. 50-11, or of the common law, a divorce under
11 this section shall not affect the rights of a dependent spouse with respect to alimony
12 which have been asserted in the action or any other pending action.

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

17 Section 2. This act becomes effective October 1, 1997, and applies to actions
18 for divorce filed on and after that date.