

Senate Bill 298

By: Senators Seabaugh of the 28th, Collins of the 6th, Tanksley of the 32nd and Starr of the 44th

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 5 of Title 19 of the Official Code of Georgia Annotated, relating to divorce, so as to require certain divorcing parents to participate in education classes that focus on the effect of divorce and separation on children; to provide for legislative findings; to provide for the types of persons who can provide the education; to provide for exceptions to the education classes; to provide for the Georgia Superior Court Clerks' Cooperative Authority to collect and report statistical information; to change the time limit for granting a divorce on the grounds that the marriage is irretrievably broken; to provide for different time frames for granting divorce based on certain circumstances; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 5 of Title 19 of the Official Code of Georgia Annotated, relating to divorce, is amended by striking subsection (a) of Code Section 19-5-1, relating to granting total divorces and referral for alternative dispute resolution, and inserting in lieu thereof the following:

"(a) Total divorces may be granted in proper cases by the superior court; provided, however, that the parties shall comply with Code Section 19-5-1.1 if it is applicable. Unless an issuable defense is filed as provided by law and a jury trial is demanded in writing by either party on or before the call of the case for trial, in all petitions for divorce and permanent alimony the judge shall hear and determine all issues of law and of fact and any other issues raised in the pleadings."

SECTION 2.

Said chapter is further amended by inserting a new Code section to read as follows;

"19-5-1.1.

(a) The General Assembly finds that children are the innocent victims of legal separation and divorce and that, when two parties separate or divorce, there is a devastating impact

1 on their children who have had no voice in the decision to disrupt the family. Oftentimes,
2 these children of divorce are negatively affected academically, socially, emotionally, and
3 psychologically as a result of the stress and trauma placed on the family by the separation
4 or divorce and by the associated discord between their parents occasioned by the process.
5 The General Assembly finds that severe emotional trauma to the children can have
6 short-term and long-term negative effects on these children. The General Assembly further
7 finds that parents pursuing legal separation and divorce may be oblivious to or attempt to
8 deny the harm they cause their children through the separation or divorce process. The
9 General Assembly finds that education may benefit parties considering legal separation or
10 divorce by educating them about the short-term and long-term negative effects that such
11 a decision may have on their children. Accordingly, the General Assembly determines and
12 declares that it is in the best interests of the children, families, and citizens of the State of
13 Georgia to require that, in most cases, parties to a legal separation or divorce proceeding
14 filed pursuant to this chapter or Chapter 6 of this title who have children younger than 18
15 years of age or who are expecting a child undertake, within 20 days of the filing of the
16 petition, education classes focusing on the current and future potential negative impact on
17 children of separation or divorce.

18 (b)(1) Except as otherwise provided in subsection (c) of this Code section, in
19 proceedings pursuant to this chapter in which there are dependent children of the
20 marriage who are younger than 18 years of age or in which the wife is pregnant, the court
21 shall order the parties seeking legal separation or divorce to participate in education
22 classes of their choice, focusing substantially on the potential impact of separation or
23 divorce on children.

24 (2) The parties shall commence such education classes within 20 days after the filing of
25 the petition for legal separation or divorce.

26 (3) The education classes shall be provided to parties in each judicial circuit by one or
27 more of the following:

28 (A) A marriage and family therapist, social worker, or professional counselor licensed
29 pursuant to Chapter 10A of Title 43 or psychologist licensed pursuant to Chapter 39 of
30 Title 43;

31 (B) An unlicensed therapist acting under the supervision of a licensed marriage and
32 family therapist, licensed psychologist, licensed social worker, or licensed professional
33 counselor;

34 (C) A member of the clergy; or

35 (D) A person acting under the supervision of a member of the clergy.

36 (4) Persons providing the education classes may use the curriculum developed by the
37 Georgia Board of Professional Counselors, Social Workers, and Marriage and Family

1 Therapists or such other curriculum that focuses specially on the impact of legal
2 separation and divorce on children.

3 (5) The education classes shall commence within 20 days after the filing of the petition
4 for legal separation or divorce and shall consist of a minium total of four hours after the
5 filing of the petition, unless the parties reconcile prior to completion of the education
6 classes. Counseling in which the parties have participated at any time within six months
7 prior to the filing of the petition shall also count toward the hourly requirements set forth
8 in this paragraph, if such counseling focused substantially on the potential impact on
9 children of separation or divorce. The parties may elect to participate in the education
10 classes together or separately. Whether the parties participate in the education classes
11 together or separately, each party shall participate for a total of four hours.

12 (6) After a party has successfully completed the education classes, the person providing
13 the education classes shall provide the participating party with a certificate of completion
14 or a letter of verification or some other written documentation indicating successful
15 completion of the education classes. The person providing education classes shall also
16 provide to the party a list of resources for mental health counseling, marital counseling,
17 child counseling, and other support services that may be available in the community to
18 the party and the party's children.

19 (7) The court may provide indigent parties alternatives as may be necessary to enable a
20 party to obtain the education required by this Code section.

21 (c) The parties may elect to attend the education classes together unless one of the
22 following circumstances exist:

23 (1) A protective order has been issued against one of the parties pursuant to Article 1 of
24 Chapter 13 of this title;

25 (2) There have been allegations of violence within the marriage; or

26 (3) One of the parties prefers to attend the education class without his or her spouse.

27 (d) The court shall not require the education classes prescribed in subsection (b) of this
28 Code section if:

29 (1) Service of process was satisfied by publication and the whereabouts of one of the
30 parties cannot be determined;

31 (2) One of the parties to the marriage at the time of the action is serving a sentence in the
32 Department of Corrections;

33 (3) The youngest child of the parties is within six months of his or her eighteenth
34 birthday;

35 (4) One of the parties to the proceeding does not live in this state; or

36 (5) The parties have been living separate and apart for more than five years.

(e) If the petition for legal separation or divorce is not dismissed, the costs, if any, associated with the education classes required by subsection (b) of this Code section shall be paid by the participating parties in accordance with each party's ability to pay, as the court deems appropriate.

(f)(1) The Georgia Superior Court Clerks' Cooperative Authority shall track the following:

(A) The total number of petitions for divorce filed each year in each judicial circuit;

(B) The total number of petitions for legal separation filed each year in each judicial circuit;

(C) The total number of decrees for divorce per 1,000 Georgia citizens entered each year in each judicial circuit;

(D) The total number of decrees for divorce involving minor children per 1,000 Georgia citizens entered each year in each judicial circuit;

(E) The total number of decrees of legal separation per 1,000 Georgia citizens entered each year in each judicial circuit;

(F) The total number of decrees of legal separation involving minor children per 1,000 Georgia citizens entered each year in each judicial circuit;

(G) The average number of minor children involved in the cases reported pursuant to subparagraphs (D) and (E) of this paragraph; and

(H) The total number of divorce and legal separation cases dismissed each year in each judicial circuit.

(2) The Georgia Superior Court Clerks' Cooperative Authority shall report to the members of the General Assembly the information it collects pursuant to paragraph (1) of this subsection, commencing January 1, 2004.

(3) Prior to July 1, 2005, the members of the Judiciary Committees of the House of Representative and Senate shall review the statistics collected by the Georgia Superior Court Clerks' Cooperative Authority pursuant to this subsection and review the appropriateness of continuing the requirements specified in this subsection."

SECTION 3.

Said chapter is further amended by striking paragraph (13) of Code Section 19-5-3, relating to grounds for divorce, and inserting in lieu thereof the following:

"(13) The marriage is irretrievably broken. Under no circumstances shall the court grant a divorce on this ground until not less than ~~30~~ 120 days from the date of service on the respondent and as further provided in Code Section 19-5-3.1."

SECTION 4.

Said chapter is further amended by inserting a new Code section to follow Code Section 19-5-3, relating to grounds for divorce, to read as follows:

"19-5-3.1.

(a) A court shall grant a divorce only after 120 days from the date of service on the respondent where the parties do not have children who are 18 years of age or younger, except as provided in subsection (c) of this Code section.

(b) A court shall grant a divorce only after 180 days from the date of service on the respondent where the parties have children who are younger than 18 years of age, except as provided in subsection (c) of this Code section.

(c) The waiting periods provided by this Code section shall be waived where either party has obtained a protective order pursuant to Article 1 of Chapter 13 of this title."

SECTION 5.

All laws and parts of laws in conflict with this Act are repealed.