

State of Arkansas  
76th General Assembly  
Regular Session, 1987  
By: Senator Dowd

SENATE BILL 633

"AN ACT TO AMEND SECTION 464 OF THE CIVIL CODE OF 1869 [ARK. STAT. 34-1202] TO DECREASE FROM THREE (3) YEARS TO EIGHTEEN (18) MONTHS THE LENGTH OF VOLUNTARY SEPARATION WHICH CONSTITUTES GROUNDS FOR DIVORCE; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Section 464 of the Civil Code of 1869, the same being Arkansas Statute 34-1202, is hereby amended to read as follows:

"Section 464. The chancery court shall have power to dissolve and set aside a marriage contract, not only from bed and board, but from the bonds of matrimony, for the following causes:

First: Where either party, at the time of contract, was and still is impotent.

Second: Where either party wilfully deserts and absents himself or herself from the other for a space of one (1) year without reasonable cause. Where the spouse so deserted shall be mentally incompetent, the court shall have the power to grant an absolute divorce upon the petition of the next friend of such incompetent or the duly appointed guardian of the incompetent spouse when proof of such desertion is corroborated by the testimony of two (2) or more witnesses. Provided that the petition filed on behalf of the incompetent spouse may be denied, if in the discretion of the court, the incompetent spouse does not understand and comprehend the nature, effect and legal consequence of the petition for divorce and the absolute divorce decree sought thereby, and provided further that nothing in this section shall prevent or prohibit the incompetent spouse from offering testimony on his or her own behalf.

Third: Where either party shall be convicted of felony or other infamous crime.

Fourth: Where either party shall be addicted to habitual drunkenness for the space of one (1) year or shall be guilty of such cruel and barbarous treatment as to endanger the life of the other, or shall offer such indignities to the person of the other as shall render his or her condition intolerable.

Fifth: Where either party shall have committed adultery subsequent to such marriage.

Sixth: Where either husband or wife have lived separate and apart from the other for eighteen (18) consecutive months, without cohabitation, the court shall grant an absolute decree of divorce at the suit of either party, where such separation was the voluntary act or by the mutual consent of the parties and the question of who is the injured party shall be considered only in cases wherein by the pleadings the spouse seeks either alimony under Section 34-1211, Arkansas Statutes 1947, or a division of property under Section 34-1214, Arkansas Statutes 1947, as hereby amended, or both.

Seventh: In all cases where a husband and wife have lived separate and apart for three (3) consecutive years, without cohabitation, by reason of the incurable insanity of one (1) of them, the court shall grant a decree of absolute divorce upon the petition of the sane spouse; provided the proof shows that the insane spouse has been committed to an institution for the care and treatment of the insane for three (3) or more years prior to the filing of the suit, been adjudged to be of unsound mind by a court of competent jurisdiction, and has not been discharged for such adjudication by such court; provided that proof of same be supported by the evidence of two (2) reputable physicians familiar with the mental condition of the spouse, one (1) of whom shall be a regularly practicing physician in the community wherein such spouse resided; provided that where the insane spouse has been confined in an institution for the care and treatment of the insane, that the proof in the case be supported by the evidence of the superintendent or one (1) of the physicians of the institution wherein the insane spouse has been confined. In all decrees granted under this subsection, the court shall require the plaintiff to provide for the care and maintenance of the insane defendant so long as he or she may live, and the trial court will retain jurisdiction of the parties and the cause, from term to term, for the purpose of making such further orders as equity may require to enforce the provisions of the decree requiring plaintiff to furnish funds for such care and maintenance. Service of process

upon an insane spouse shall be had by service of same upon the duly appointed, qualified and acting guardian of such insane spouse or upon a duly appointed guardian ad litem for such insane spouse, and where the insane spouse is confined in an institution for the care of insane, upon the superintendent or physician in charge of the institution wherein the insane spouse is at the time confined; provided, however, where the insane spouse is not confined in an institution that service of process upon the duly appointed, qualified and acting guardian of the insane spouse, or duly appointed guardian ad litem and thereafter personal service or constructive service on insane defendant by publication of warning order for four (4) weeks shall be sufficient.

Eighth: Where either spouse legally obligated to support the other, and having the ability to provide the other with the common necessities of life, wilfully fails to do so."

SECTION 2. All laws and parts of laws in conflict with this Act are hereby repealed.

