

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2003 Session of
1995

INTRODUCED BY PITTS, BELFANTI, SATHER, DeLUCA, GODSHALL,
BIRMELIN, RUBLEY, MELIO, TIGUE, LYNCH, MERRY, EGOLF, BROWNE,
STABACK, HENNESSEY, SAYLOR, LEH, FLICK, STERN AND ROHRER,
SEPTEMBER 20, 1995

REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 20, 1995

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, establishing the judicial option of
3 holding hearings in no-fault divorces.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 3301 of Title 23 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 3301. Grounds for divorce.

9 (a) Fault.--The court may grant a divorce to the innocent
10 and injured spouse whenever it is judged that the other spouse
11 has:

12 (1) Committed willful and malicious desertion, and
13 absence from the habitation of the injured and innocent
14 spouse, without a reasonable cause, for the period of one or
15 more years.

16 (2) Committed adultery.

17 (3) By cruel and barbarous treatment, endangered the

1 life or health of the injured and innocent spouse.

2 (4) Knowingly entered into a bigamous marriage while a
3 former marriage is still subsisting.

4 (5) Been sentenced to imprisonment for a term of two or
5 more years upon conviction of having committed a crime.

6 (6) Offered such indignities to the innocent and injured
7 spouse as to render that spouse's condition intolerable and
8 life burdensome.

9 (b) Institutionalization.--The court may grant a divorce
10 from a spouse upon the ground that insanity or serious mental
11 disorder has resulted in confinement in a mental institution for
12 at least 18 months immediately before the commencement of an
13 action under this part and where there is no reasonable prospect
14 that the spouse will be discharged from inpatient care during
15 the 18 months subsequent to the commencement of the action. A
16 presumption that no prospect of discharge exists shall be
17 established by a certificate of the superintendent of the
18 institution to that effect and which includes a supporting
19 statement of a treating physician.

20 (c) Mutual consent.--The court may grant a divorce where it
21 is alleged that the marriage is irretrievably broken and 90 days
22 have elapsed from the date of commencement of an action under
23 this part and an affidavit has been filed by each of the parties
24 evidencing that each of the parties consents to the divorce.

25 (d) Irretrievable breakdown.--

26 (1) The court may grant a divorce where a complaint has
27 been filed alleging that the marriage is irretrievably broken
28 and an affidavit has been filed alleging that the parties
29 have lived separate and apart for a period of at least two
30 years and that the marriage is irretrievably broken and the

1 defendant either:

2 (i) Does not deny the allegations set forth in the
3 affidavit.

4 (ii) Denies one or more of the allegations set forth
5 in the affidavit but, after notice and hearing, the court
6 determines that the parties have lived separate and apart
7 for a period of at least two years and that the marriage
8 is irretrievably broken.

9 (2) If a hearing has been held pursuant to paragraph
10 (1)(ii) and the court determines that there is a reasonable
11 prospect of reconciliation, then the court shall continue the
12 matter for a period not less than 90 days nor more than 120
13 days unless the parties agree to a period in excess of 120
14 days. During this period, the court shall require counseling
15 as provided in section 3302 (relating to counseling). If the
16 parties have not reconciled at the expiration of the time
17 period and one party states under oath that the marriage is
18 irretrievably broken, the court shall determine whether the
19 marriage is irretrievably broken. If the court determines
20 that the marriage is irretrievably broken, the court shall
21 grant the divorce. Otherwise, the court shall deny the
22 divorce.

23 [(e) No hearing required in certain cases.--If grounds for
24 divorce alleged in the complaint or counterclaim are established
25 under subsection (c) or (d), the court shall grant a divorce
26 without requiring a hearing on any other grounds.]

27 Section 2. The amendment of 23 Pa.C.S. § 3301 shall apply to
28 all cases pending on or after the effective date of this act.

29 Section 3. This act shall take effect in 60 days.