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Am. H.B. 477

(As Reported by S. Judiciary)

Reps. Saxbe, Beatty, Ney, Bowman

Sen. McCormack

Authorizes courts of common pleas to grant a divorce if spouses have lived separate and apart without cohabitation for one year without interruption in all cases, including those in which one of the spouses is continually confined to a mental institution.

CONTENT AND OPERATION

Under existing section 3105.01(K) of the Revised Code, one of the grounds upon which a court of common pleas can grant a divorce is that a husband and wife have lived separate and apart without cohabitation for two years without interruption. The bill would modify this ground for granting a divorce to provide that a husband and wife need only have lived separate and apart without cohabitation for one year without interruption (section 3105.01(K)).

Present law requires that a husband and wife live separate and apart for four years prior to a divorce on that basis when one is continually confined in a mental institution. The bill would strike this language, thereby making one year the "separate and apart" period in all cases, including cases in which one of the parties to the marriage is continually confined to a mental institution (section 3105.01(K)).

ACTION	DATE	JOURNAL ENTRY
Introduced	4-23-81	p. 530
Reported, H. Civil & Commercial Law	6-17-81	p. 945
Passed House (70-23)	6-30-81	pp. 1021-1022
Reported, S. Judiciary	2-17-82	p. 1601

David J.

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FILE

(Amended House Bill No. 477)

AN ACT

To amend section 3105.01 of the Revised Code to permit the court of common pleas to grant a divorce on the ground that the spouses have lived separate and apart without interruption for one year and to eliminate the requirement that the spouses must have lived separate and apart for four years if one is continually confined to a mental institution.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 3105.01 of the Revised Code be amended to read as follows:

Sec. 3105.01. The court of common pleas may grant divorces for the following causes:

- (A) Either party had a husband or wife living at the time of the marriage from which the divorce is sought;
- (B) Willful absence of the adverse party for one year;
- (C) Adultery;
- (D) Impotency;
- (E) Extreme cruelty;
- (F) Fraudulent contract;
- (G) Any gross neglect of duty;
- (H) Habitual drunkenness;
- (I) Imprisonment of the adverse party in a state or federal penal institution under sentence thereto at the time of filing the petition;
- (J) Procurement of a divorce ~~without~~ OUTSIDE this state, by a husband or wife, by virtue of which the party who procured it is released from the obligations of the marriage, while such obligations remain binding upon the other party;
- (K) On the application of either party, when husband and wife have, without interruption for ~~two years~~ ONE YEAR, lived

separate and apart without cohabitation, ~~and four years in the case in which one of the parties is continually confined to a mental institution.~~

A plea of res judicata or of recrimination with respect to any provision of this section does not bar either party from obtaining a divorce on this ground.

SECTION 2. That existing section 3105.01 of the Revised Code is hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 19__

Approved _____, 19__

Governor.

Am. H. B. No. 477

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 19 __,

Secretary of State.

File No. _____ Effective Date _____

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