
HOUSE BILL 2950

State of Washington

54th Legislature

1996 Regular Session

By Representatives Stevens, Mulliken, Beeksma, Koster, McMahan, Hargrove, B. Thomas and Johnson

Read first time 02/05/96. Referred to Committee on Law & Justice.

1 AN ACT Relating to considering the best interest of the child in
2 dissolution; and amending RCW 26.09.030.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 26.09.030 and 1973 1st ex.s. c 157 s 3 are each
5 amended to read as follows:

6 When a party who is a resident of this state or who is a member of
7 the armed forces and is stationed in this state, petitions for a
8 dissolution of marriage, and alleges that the marriage is irretrievably
9 broken and when ~~((ninety days have elapsed))~~, since the petition was
10 filed and from the date when service of summons was made upon the
11 respondent or the first publication of summons was made, ninety days
12 have elapsed if there are no minor children from the marriage, or one
13 hundred eighty days have elapsed if there are minor children from the
14 marriage, the court shall proceed as follows:

15 (1) If the other party joins in the petition or does not deny that
16 the marriage is irretrievably broken, the court ~~((shall))~~ may enter a
17 decree of dissolution unless the entry of such a decree is not in the
18 best interests of the children, if any.

1 (2) If the other party alleges that the petitioner was induced to
2 file the petition by fraud, or coercion, the court shall make a finding
3 as to that allegation and, if it so finds shall dismiss the petition.

4 (3) If the other party denies that the marriage is irretrievably
5 broken the court shall consider all relevant factors, including the
6 circumstances that gave rise to the filing of the petition and the
7 prospects for reconciliation, and (~~shall~~):

8 (a) The court may make a finding that the marriage is irretrievably
9 broken and enter a decree of dissolution of the marriage unless the
10 entry of such a decree is not in the best interests of the children, if
11 any; or

12 (b) At the request of either party or on its own motion, the court
13 shall transfer the cause to the family court, refer them to another
14 counseling service of their choice, and request a report back from the
15 counseling service within sixty days, or continue the matter for not
16 more than sixty days for hearing.

17 If the cause is returned from the family court or at the adjourned
18 hearing, the court (~~shall~~) may either:

19 (i) Find that the parties have agreed to reconciliation and dismiss
20 the petition; or

21 (ii) Find that the parties have not been reconciled, and that
22 either party continues to allege that the marriage is irretrievably
23 broken.

24 When such facts are found, the court (~~shall~~) may make a finding
25 that the marriage is irretrievably broken and enter a decree of
26 dissolution of the marriage unless the entry of such a decree is not in
27 the best interests of the children, if any.

28 (4) If the petitioner requests the court to decree legal separation
29 in lieu of dissolution, the court shall enter the decree in that form
30 unless the other party objects and petitions for a decree of
31 dissolution or declaration of invalidity, in which case the court may
32 make a finding that the marriage is irretrievably broken and enter a
33 decree of dissolution or declaration of invalidity, as appropriate,
34 unless the entry of such a decree is not in the best interests of the
35 children, if any.

36 (5) If a party has filed a petition for a decree of dissolution
37 alleging that the marriage is irretrievably broken, the decree shall be
38 granted only upon a showing by the filing party of evidence admissible

1 in a court of law that is capable of supporting by a preponderance of
2 the evidence a finding that the marriage is irretrievably broken.

3 (6) In deciding whether or not to grant a decree of dissolution
4 when the petition has alleged that the marriage is irretrievably
5 broken, the court shall take into consideration what is in the best
6 interests of the parties and of the children, if any, and shall not
7 enter a decree that is not in the best interests of the children.

8 (7) The court may enter a decree of dissolution under this section
9 only if one of the parties is present at the final hearing on the
10 petition.

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