

SENATE BILL REPORT

SB 5614

As of February 18, 2013

Title: An act relating to family second chances.

Brief Description: Encouraging reconciliation and nonadversarial approaches to dissolution.

Sponsors: Senators Benton, Carrell, Hargrove, Padden, Delvin, Dammeier, Shin, Hewitt and Brown.

Brief History:

Committee Activity: Law & Justice: 2/15/13.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Sharon Swanson (786-7447)

Background: The Administrative Office of the Courts (AOC) is statutorily required to create a handbook explaining the sections of Washington law pertaining to the rights and responsibilities of marital partners to each other and to any children during a marriage, and a dissolution of marriage. The handbook is provided by the county auditor when a person applies for a marriage license and also to a petitioner and respondent during a dissolution.

The handbook is updated annually but must contain information addressing the following subjects:

- prenuptial agreements;
- shared parental responsibility for children;
- notice requirements and standards for parental relocation;
- child support for minor children;
- property rights, including the equitable distribution of assets;
- spousal maintenance;
- domestic violence, child abuse, and neglect, including penalties;
- court process related to dissolution;
- the effects of dissolution on children; and
- community resources available to separating or divorcing persons and their children.

Current law provides that 90 days must have elapsed between the filing for a petition of dissolution and entry of a decree of dissolution by the court.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill: AOC must develop a method to allow parties to a dissolution proceeding to acknowledge that they have read and understood the handbook, and have the acknowledgement be reflected in the court record. Parties are required to acknowledge that they have read and understood the handbook either on the AOC web site or in writing, within 90 days of filing for dissolution.

The handbook must contain information on:

- the option of reconciliation, including research on the interest in reconciliation among couples considering marriage dissolution;
- the potential benefits of avoiding marriage dissolution;
- resources to assist with reconciliation for interested couples;
- information on the circumstances in which the risk of domestic violence should exclude consideration of reconciliation; and
- information on non-adversarial approaches to dissolution.

The timeframe between filing a petition for dissolution and entry of a decree of dissolution by a court is one year.

The one-year period may be waived by a court when:

- either party was convicted during the marriage of a violent or sexual felony against the other party or a minor child; or
- a court made a final, non-preliminary civil protection order against either party, based on a final determination that one party committed or threatened physical violence against the other party or a minor child of the divorce petitioner. The respondent must have had advance notice and an opportunity to participate in an evidentiary hearing.

This act may be known as the the Family Second Chance Act.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Divorce causes poverty, juvenile delinquency, and lower scholastic achievement among children. Even a moderate decline in the rate of divorce in this state will save the state money and help families. A longer waiting period and an emphasis on reconciliation will help families in our state. The main reason to increase the waiting period for divorce rates is to help lower the divorce rate. Washington ranks 15th in the nation for rates of divorce. Most of the inmates in our prisons come from broken homes. Family fragmentation in our state costs the taxpayers more. Of the ten states that have the highest divorce rates, nine of those states have no waiting period. The overwhelming majority of people who have divorced regret the divorce. Divorce is bad for everyone. When we are angry or sad our brain stops working logically. People do not make good decisions when they are upset. An additional waiting time will allow everyone to calm down

and reflect if this is what is best for everyone. Happy marriages rely on forgiveness and forgiveness is a process and it takes time and work. Couples need time to cool off and not act in anger. There is a great deal of information on the web on how to dissolve a marriage but a person needs to look to find ways to stop a divorce or to work on reconciliation. Couples need time to develop practical skills on how to fix their marriage, not encouragement on how to quickly end their marriage. This type of a bill will provide opportunities for families to stay together.

CON: Children suffer under the chaos of separation and divorce. They need resolution and the opportunity to get on with their lives. Children do better with two parents but they do not do better with conflict in the home. Many women who suffer abuse will not file a restraining or protection order for fear of antagonizing their abuser. The vast majority of people who divorce are pro se. A longer waiting period gives an abuser much more time and opportunity to use the legal system to further torment and control their victim. The waiver provisions in this bill will not protect victims. Cultural reasons will also prevent women from seeking help or protection to get a waiver under this bill. Domestic abuse by litigation is a real thing that happens and this bill will make this easier. Justice delayed is justice denied. This bill will do exactly that. Extending the waiting time for divorce will continue the abuse, stalking, and harassment that domestic violence victims suffer. People are actually advised by their counsel to not raise a domestic violence situation before the court because it will escalate the abuser. We are all aware of the *Brame* case, and there had not been any allegations in the legal system about abuse and there were not public allegations, but we all saw the consequence was when the victim attempted to leave the relationship. This bill creates more hearings and more instances where a victim needs to confront their abuser. Most people do not take divorce lightly and do not wake up one day and decide to end their marriage. There are many, very complicated reasons for a divorce. We should trust people to make their own decisions about their families and their marriage. The state should not be second guessing people in the decisions they make about their relationships. A waiting period is not a cure all.

Persons Testifying: PRO: Senator Benton, prime sponsor; Pamela Sherbrooke, Psychotherapist; Rob Mapes, Larry Kuamme, citizens; Garrick Pang, Stronger Families; Joseph Backholm, Family Police Institute.

CON: Rick Bartholomew, Family Law Section WA State Bar Assn.; Richard Adamson, Retired Court Commissioner; Grace Huang, WA State Coalition against Domestic Violence; David Ward, Legal Voice.