

2016 -- S 2661

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LC005205
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO DOMESTIC RELATIONS - DIVORCE AND SEPARATION

Introduced By: Senators Lynch Prata, McCaffrey, Lombardi, and Archambault

Date Introduced: February 25, 2016

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 15-5-3 and 15-5-23 of the General Laws in Chapter 15-5 entitled
2 "Divorce and Separation" are hereby amended to read as follows:

3 **15-5-3. Separation of parties as ground for dissolution -- Appeal.** -- (a) Whenever, in
4 the trial of any ~~petition~~ complaint for divorce from the bond of marriage or any ~~petition~~ complaint
5 for dissolution of a marriage, it shall be alleged in the ~~petition~~ complaint that the parties have
6 lived separate and apart from each other for the space of at least three (3) years, whether
7 voluntarily or involuntary, the court shall, upon a finding that the allegation is true, enter a
8 ~~judgment~~ decision pending entry of final judgment of divorce, which may include provisions for
9 alimony.

10 (b) Final judgment shall not be entered until the expiration of twenty (20) days after
11 entry of the ~~judgment~~ decision pending entry of final judgment or, if the time for taking an appeal
12 has been extended pursuant to Rule 4 of the Rules of Appellate Procedure, Article I, Rule 4 of the
13 Supreme Court Rules, until the expiration of the extended period.

14 (c) Final judgment may be entered ex parte and in chamber on the suggestion of the
15 prevailing party.

16 (d) If no final judgment is presented to the court for entry within ~~thirty (30)~~ one hundred
17 eighty (180) days next after the expiration of twenty (20) days from the date of decision, ~~after this~~
18 a final judgment may be entered only in open court and on motion or written consent of the
19 attorneys or parties.

1 (e) Notice of the filing of the motion shall not be required in cases in which the original
2 ~~petition~~ complaint is unanswered.

3 (f) The taking of an appeal shall operate as a stay of the judgment during the pendency of
4 the appeal. Upon motion and for good cause shown:

5 (1) The family court may, prior to the filing of a notice of appeal, order that the judgment
6 become final and operative immediately; and

7 (2) The supreme court may, in the event an appeal is taken, vacate the automatic stay
8 provided under this section.

9 ~~**15-5-23. Remarriage --- Final decree. --- Final judgment - Remarriage. -- After final**~~
10 ~~**decree for divorce from the bond of marriage either party may marry again; but no decree**~~ (a) No
11 judgment for a divorce shall become final and operative until three (3) months after the trial and
12 decision. Final decree from the bond of marriage may be entered ex parte and in chambers on the
13 suggestion of the prevailing party at any time within ~~thirty (30)~~ one hundred eighty (180) days
14 next after the expiration of three (3) months from the date of decision. After the expiration of the
15 ~~thirty (30)~~ one hundred eighty (180) days, final decrees may be entered only in open court and on
16 motion or upon written consent of the attorneys or parties. Notice of the filing of the motion shall
17 not be required in cases in which the original ~~petition~~ complaint is unanswered.

18 (b) After entry of the final judgment for a divorce from the bond of marriage either party
19 may marry again.

20 SECTION 2. This act shall take effect upon passage and shall apply to all actions for
21 divorce pending at the time of or filed after the effective date.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would increase the time from thirty (30) days to one hundred eighty (180) days
2 for a final judgment of divorce to be presented to the court for entry and would allow entry upon
3 written consent of the attorneys or parties before requiring entry in open court upon motion in
4 order to avoid unnecessary motion practice.

5 This act would take effect upon passage and would apply to all actions for divorce
6 pending at the time of or filed after the effective date.

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