

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

SENATE BILL NO. 949

BY: RUBOTTOM

AS INTRODUCED

AN ACT RELATING TO MARRIAGE; AMENDING 43 O.S. 1991,  
SECTION 101, WHICH RELATES TO GROUNDS FOR DIVORCE;  
PROVIDING FOR WAIVER OF DIVORCE DUE TO  
INCOMPATIBILITY; PROVIDING FOR CODIFICATION; AND  
PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4.1 of Title 43, unless there is created a duplication in numbering, reads as follows:

Any couple, whether legally married or in anticipation of marriage, may execute a written mutual waiver of their right to divorce for the cause of incompatibility, which is listed as the seventh cause for divorce in Section 101 of Title 43 of the Oklahoma Statutes. The waiver shall be witnessed in writing by two (2) competent adults and filed with the clerk of the district court where the couple's marriage license was or is to be issued. If the marriage license was issued from any other state, the waiver shall be filed with the clerk of the district court of the county of the couple's residence along with a copy of the couple's marriage

license. The waiver shall be enforceable by a defendant in a divorce only when there is a minor child or children of the marriage, either by birth or adoption, and when either or both of the parties are entitled to the custody of any such child.

SECTION 2. AMENDATORY 43 O.S. 1991, Section 101, is amended to read as follows:

Section 101. The district court may grant a divorce for any of the following causes:

First. Abandonment for one (1) year.

Second. Adultery.

Third. Impotency.

Fourth. When the wife at the time of her marriage, was pregnant by another than her husband.

Fifth. Extreme cruelty.

Sixth. Fraudulent contract.

Seventh. Incompatibility, except as provided in Section 1 of this act.

Eighth. Habitual drunkenness.

Ninth. Gross neglect of duty.

Tenth. Imprisonment of the other party in a state or federal penal institution under sentence thereto for the commission of a felony at the time the petition is filed.

Eleventh. The procurement of a final divorce decree without this state by a husband or wife which does not in this state release the other party from the obligations of the marriage.

Twelfth. Insanity for a period of five (5) years, the insane person having been an inmate of a state institution for the insane in the State of Oklahoma, or inmate of a state institution for the insane in some other state for such period, or of a private sanitarium, and affected with a type of insanity with a poor prognosis for recovery; provided, that no divorce shall be granted because of insanity until after a thorough examination of such

insane person by three physicians, one of which physicians shall be a superintendent of the hospital or sanitarium for the insane, in which the insane defendant is confined, and the other two physicians to be appointed by the court before whom the action is pending, any two of such physicians shall agree that such insane person, at the time the petition in the divorce action is filed, has a poor prognosis for recovery; provided, further, however, that no divorce shall be granted on this ground to any person whose husband or wife is an inmate of a state institution in any other than the State of Oklahoma, unless the person applying for such divorce shall have been a resident of the State of Oklahoma for at least five (5) years prior to the commencement of an action; and provided further, that a decree granted on this ground shall not relieve the successful party from contributing to the support and maintenance of the defendant. The court shall appoint a guardian ad litem to represent the insane defendant, which appointment shall be made at least ten (10) days before any decree is entered.

SECTION 3. This act shall become effective September 1, 1992.

43-2-1886

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