STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1689 By: O'Neal

AS INTRODUCED

An Act relating to marriage and family; amending 43 O.S. 1991, Section 101, which relates to grounds for divorce; clarifying language; authorizing the court to refuse to grant divorce on certain grounds; provides for certain counseling; providing for codification; and providing an effective date.

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

SECTION 1. 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.~~ 1. Abandonment for one (1) year~~.~~;

~~Second.~~ 2. Adultery~~.~~;

~~Third.~~ 3. Impotency~~.~~;

~~Fourth.~~ 4. When the wife at the time of her marriage, was pregnant by another than her husband~~.~~;

~~Fifth.~~ 5. Extreme cruelty~~.~~;

~~Sixth.~~ 6. Fraudulent contract~~.~~;

~~Seventh.~~ 7. Incompatibility~~.~~, except as otherwise provided by Section 2 of this act;

~~Eighth.~~ 8. Habitual drunkenness~~.~~;

~~Ninth.~~ 9. Gross neglect of duty~~.~~;

~~Tenth.~~ 10. 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.~~ 11. 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~~.~~; or

~~Twelfth.~~ 12. 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~~.

No divorce shall be granted:

a. 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~~,

b. 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~~.

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 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 101.1 of Title 43, unless there is created a duplication in numbering, reads as follows:

In any action for divorce on grounds of incompatibility and the parties have any minor children of the marriage, if both parties to the action do not consent to the grounds of incompatibility, the court may refuse to grant the divorce on such grounds of incompatibility, if the court finds that such divorce would not be in the best interests of the minor children of the marriage.

The court may direct that the parties participate in marital, reconciliation, or family counseling.

SECTION 3. This act shall become effective November 1, 1995.

45-1-6187 KSM