



Saturday, July 3, 2010

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A09753 Summary:

BILL NO A09753A

SAME AS Same as S 3890-A

SPONSOR Bing (MS)

COSPNSR Lavine, Galef, Lancman, Titone, Cymbrowitz, Koon, Powell, Schimel, Zebrowski, Benedetto, Kellner, Rivera J, Espaillat, Kavanagh, Dinowitz, Spano, Fields, Ortiz, Boyland, Castro, Weprin D, Jaffee

MLTSPNSR Alfano, Cahill, Calhoun, Conte, Cook, DenDekker, Duprey, Finch, Gabryszak, Gianaris, Gottfried, Gunther, Hevesi, Hooper, Jeffries, Jordan, Lifton, Lupardo, Magee, Maisel, Markey, Mayersohn, McDonough, McKeivitt, Meng, Miller M, Millman, Perry, Pretlow, Quinn, Rivera P, Robinson, Sayward, Scarborough, Scozzafava, Skartados, Sweeney, Thiele, Towns, Townsend

Amd S170, Dom Rel L

Provides that spouses may be granted a judgment of divorce in a timely fashion provided they meet certain conditions.

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A09753 Memo:

BILL NUMBER:A9753A

TITLE OF BILL: An act to amend the domestic relations law, in relation to no fault divorce

PURPOSE OR GENERAL IDEA OF THE BILL: This bill would allow a judgment of divorce to be granted to either a husband or a wife without assigning fault to either of the parties. However, a divorce could only be granted after the major ancillary issues have been resolved.

SUMMARY OF SPECIFIC PROVISIONS: Section 1. Section 170 of the Domestic Relations Law is amended by adding subdivision 7 allowing divorce when a marriage is irretrievably broken, for a period of at least six months, provided that one party has so stated under oath.

This judgment can only be granted after the following ancillary issues have been resolved: the equitable distribution of marital property, the Payment or waiver of spousal support, the payment of child support, the payment of counsel and expert fees and expenses, and custody and visitation with the infant children of the marriage.

A judgment of divorce under this subdivision could not be issued until all these issues are resolved.

Section 2 establishes that this act shall take effect on the sixtieth day after it shall have become law.

JUSTIFICATION: New York is the only state that does not have a no-fault divorce provision.

Currently, a divorce can only be procured by alleging fault such as cruel and inhuman treatment, adultery, abandonment or confinement of the defendant in prison (in addition to the parties living apart pursuant to a separation agreement or judicial decree for more than one year). Yet many people divorce for valid reasons that do not fall under these classifications. They are forced to invent false justifications to legally dissolve their marriages. False accusations and the necessity to hold one partner at fault often result in conflict within the family. The conflict is harmful to the partners and destructive to the emotional well being of children. Prolonging the divorce process adds additional stress to an already difficult situation.

A study cited at the 2007 Forum on the Need for No-Fault Divorce presented by the NYS Office of Court Administration's Office of Matrimonial and Family Law Study and Reform showed a large decline in domestic violence in states with no-fault divorce. The 27 states studied that have adopted no-fault divorce statutes have seen female suicide rates decline approximately 20 while reports of domestic violence committed by husbands against wives were reduced by more than one-third.

This legislation enables parties to legally end a marriage which is, in reality, already over and cannot be salvaged. Its intent is to lessen

the disputes that often arise between the parties and to mitigate the potential harm to them and their children caused by the current process. Because a resolution of all the major issues must be reached before a divorce judgment is granted, this legislation safeguards the parties' rights and economic interests.

PRIOR LEGISLATIVE HISTORY: A9398A of 2007-2008.

FISCAL IMPLICATIONS: None.

EFFECTIVE DATE: This act shall take effect on the sixtieth day after it shall have become law.

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A09753 Text:

9753--A

I N A S S E M B L Y

January 21, 2010

Introduced by M. of A. BING, LAVINE, GALEF, LANCMAN, TITONE, CYMBROWITZ, KOON, POWELL, SCHIMEL, ZEBROWSKI, BENEDETTO, KELLNER, J. RIVERA, ESPAILLAT, KAVANAGH, DINOWITZ, SPANO, FIELDS, ORTIZ, BOYLAND, CASTRO, HYER-SPENCER -- Multi-Sponsored by -- M. of A. ALFANO, BURLING, CAHILL, CALHOUN, CONTE, COOK, CROUCH, DenDEKKER, DUPREY, ERRIGO, FINCH, GABRYSZAK, GIANARIS, GIGLIO, GOTTFRIED, GUNTHER, HEVESI, HOOPER, JEFFRIES, JORDAN, LIFTON, LUPARDO, MAGEE, MAISEL, MARKEY, MAYER-SOHN, McDONOUGH, McKEVITT, MENG, M. MILLER, MILLMAN, MONTESANO, PERRY, PRETLOW, QUINN, REILICH, P. RIVERA, ROBINSON, SAYWARD, SCARBOROUGH, SCOZZAFAVA, SKARTADOS, SWEENEY, THIELE, TOWNS, TOWNSEND -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the domestic relations law, in relation to no fault divorce

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 170 of the domestic relations law is amended by
2 adding a new subdivision 7 to read as follows:

3 (7) THE RELATIONSHIP BETWEEN HUSBAND AND WIFE HAS BROKEN DOWN IRRE-
4 TRIEVABLY FOR A PERIOD OF AT LEAST SIX MONTHS, PROVIDED THAT ONE PARTY
5 HAS SO STATED UNDER OATH. NO JUDGMENT OF DIVORCE SHALL BE GRANTED UNDER
6 THIS SUBDIVISION UNLESS AND UNTIL THE ECONOMIC ISSUES OF EQUITABLE
7 DISTRIBUTION OF MARITAL PROPERTY, THE PAYMENT OR WAIVER OF SPOUSAL
8 SUPPORT, THE PAYMENT OF CHILD SUPPORT, THE PAYMENT OF COUNSEL AND
9 EXPERTS' FEES AND EXPENSES AS WELL AS THE CUSTODY AND VISITATION WITH
10 THE INFANT CHILDREN OF THE MARRIAGE HAVE BEEN RESOLVED BY THE PARTIES,
11 OR DETERMINED BY THE COURT AND INCORPORATED INTO THE JUDGMENT OF
12 DIVORCE.

13 S 2. This act shall take effect on the sixtieth day after it shall
14 have become a law and and shall apply to matrimonial actions commenced
15 on or after such effective date.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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