

1 HB310
2 136473-2
3 By Representatives Melton, England and Colston
4 RFD: Judiciary
5 First Read: 14-FEB-12

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8 SYNOPSIS: Under existing law, a court can enter a
9 final judgment of divorce 30 days from the date of
10 the filing of the summons and complaint.

11 This bill would require a waiting period of
12 180 days before a final judgment of divorce could
13 be entered if there are minor children resulting
14 from the marriage of the parties to the divorce.

15 This bill would require certain divorcing
16 parents to participate in certain education classes
17 that focus on the effect of divorce and separation
18 on children.

19 This bill would provide for the types of
20 persons who can provide the education.

21 This bill would provide for exceptions to
22 the education classes.

23 This bill would require a waiting period of
24 90 days before a final judgment of divorce could be
25 entered if there are no minor children of the
26 marriage.

1 This bill would allow a court to enter a
2 final judgment of divorce in less than 30 days of
3 the filing of a summons and complaint if the court
4 finds by clear and convincing evidence that there
5 is domestic violence or child abuse.

6 This bill would require the party requesting
7 a divorce to submit a family plan regarding any
8 child born to the marriage.

9 This bill would provide for the rights of a
10 parent who does not have physical custody of a
11 child born to the marriage unless the parent has
12 been convicted of domestic violence or child abuse.

13 This bill would require a waiting period of
14 90 days before a final judgment of divorce could be
15 entered where there are no minor children resulting
16 from the marriage of the parties to the divorce if
17 the court finds that one or both of the parties has
18 committed domestic violence or child abuse.

19 This bill would require, within the 180-day
20 waiting period, the adult parties to a divorce to
21 participate jointly or separately in a minimum
22 number of parenting education classes.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 To amend Section 30-2-8.1, Code of Alabama 1975,
2 relating to divorce; to provide legislative findings; to
3 require a 180-day waiting period before a final judgment of
4 divorce could be entered if there are minor children resulting
5 from the marriage of the parties to the divorce; to require
6 certain divorcing parents to participate in certain education
7 classes that focus on the effect of divorce and separation on
8 children; to provide for the types of persons who can provide
9 the education; to provide for exceptions to the education
10 classes; to require a waiting period of 90 days before a final
11 judgment of divorce could be entered where there are no minor
12 children resulting from the marriage of the parties to the
13 divorce; to provide that if the court finds that one or both
14 of the parties has committed domestic violence or child abuse
15 it may enter a final judgment of divorce after the expiration
16 of 30 days from the filing of the summons and complaint; to
17 require the party requesting a divorce to submit a family plan
18 regarding any child born to the marriage; and to provide for
19 the rights of the parent who does not have physical custody of
20 a child born to the marriage unless the parent has been
21 convicted of domestic violence or child abuse.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. The Legislature finds each of the
24 following:

25 (1) Social science has shown that children of single
26 parent families are twice as likely to drop out of school,
27 three times as likely to become pregnant as a teenager, six

1 times more likely to be in poverty, and 12 times more likely
2 to be incarcerated.

3 (2) Alabama has one of the highest divorce rates in
4 the United States and the people that suffer the most from
5 divorce are the minor children. The purpose of this act is to
6 encourage reconciliation and less divorce.

7 Section 2. Section 30-2-8.1, Code of Alabama 1975,
8 is amended to read as follows:

9 "§30-2-8.1.

10 "~~(a) A court shall not enter a final judgment of~~
11 ~~divorce until after the expiration of 30 days from the date of~~
12 ~~the filing of the summons and complaint. Except as provided in~~
13 ~~subsections (b) and (c), if a court finds there are minor~~
14 ~~children of the marriage, the court may not enter a final~~
15 ~~judgment of divorce until after the expiration of 180 days~~
16 ~~from the date of the filing of the summons and complaint after~~
17 ~~each party submits to the court certification of completion of~~
18 ~~the parenting education as required by subsection (e), unless~~
19 ~~the court finds that one of the parties has willfully failed~~
20 ~~or otherwise cannot complete or attend parenting education.~~

21 "(b) A court may enter a final judgment of divorce
22 after the expiration of 90 days from the date of the filing of
23 the summons and complaint if there are no minor children of
24 the marriage.

25 "(c) A court may enter a final judgment of divorce
26 if, after the expiration of 30 days from the date of the
27 filing of the summons and complaint, the court finds by clear

1 and convincing evidence there is domestic violence or child
2 abuse.

3 "(b)(d) This section shall not restrict the power of
4 the court to enter any temporary orders necessary prior to the
5 expiration of the waiting ~~period~~ periods. The temporary orders
6 may include, but shall not be limited to, temporary orders on
7 custody, spousal or child support, visitation, exclusive
8 occupancy of the marital residence, or restraining the
9 parties. When minor children are the product of the marriage,
10 the court shall refer to subsections (a) and (c).

11 "(e) The court shall require a temporary family plan
12 to be submitted to the court by the party requesting a divorce
13 where minor children are the product of the marriage. A plan
14 may be submitted by either party or a joint plan agreed upon
15 by both parties. The plan shall include, but not be limited
16 to, occupancy of the marital residence, financial
17 responsibility of marital residence, spousal support for the
18 minor children, child support, parenting time, transportation,
19 school and church to attend, holiday schedule, and medical and
20 dental insurance. The court shall give preference to any
21 jointly agreed upon temporary family plan submitted by the
22 parties. The court may not deviate from a joint plan agreed to
23 by the parties unless by the clear and convincing evidence
24 standard, the plan places either party or the minor children
25 in imminent danger. If one party willfully refuses to submit a
26 plan, the plan submitted by the other party shall have
27 preference. If both parties willfully refuse to submit a plan,

1 the court shall enter a plan using the least restrictive means
2 available.

3 "(f) The following are the rights of a parent where
4 a child is not in the physical care of that parent unless that
5 parent has been convicted by a court of proper jurisdiction of
6 domestic violence or child abuse:

7 "(1) The right to unimpeded telephone conversations
8 with each child at least twice a week.

9 "(2) The right to send mail or email to each child,
10 which the other parent will not open or censor.

11 "(3) The right to receive notice and relevant
12 information as soon as practicable but within 24 hours of any
13 event of hospitalization, major illness, or death of each
14 child.

15 "(4) The right to receive directly from the school
16 of each child, upon written request which includes a current
17 mailing address, copies of each report card, attendance of
18 each child, records, names of teachers, class schedules,
19 standardized test scores, and any other records customarily
20 made available to parents.

21 "(5) The right to receive, directly from each
22 child's physician and other health care providers, copies of
23 each child's medical records, provided that a written request
24 is made to the provider with a current mailing address and
25 payment for reasonable cost of duplicating and mailing
26 records.

1 "(6) The right to be notified as soon as practicable
2 but within 24 hours in advance of any extracurricular
3 activities in which each child is participating.

4 "(g) (1) Except as otherwise provided in subsection
5 (h) in proceedings pursuant to this chapter in which there are
6 minor children of the marriage or in which the wife is
7 pregnant, the court shall order the parties seeking legal
8 separation or divorce to participate in parenting classes
9 approved by the court. The court may order the parenting
10 classes for divorcing stepparents if the court determines the
11 education is warranted under the circumstances of the case.

12 "(2) If ordered to complete educational classes, the
13 parties shall complete the education classes prior to
14 obtaining a final decree for divorce.

15 "(3) The education classes shall be provided to
16 parties in each judicial circuit by one or more of the
17 following:

18 "a. A licensed marriage and family therapist,
19 licensed social worker, or licensed professional counselor, or
20 licensed psychologist.

21 "b. A therapist who is acting under the supervision
22 of a licensed marriage and family therapist, licensed
23 psychologist, licensed social worker, or licensed professional
24 counselor.

25 "c. A licensed physician.

26 "d. A clinical nurse specialist.

1 "e. An active member of the clergy when in the
2 course of his or her service as clergy, or his or her
3 designee, including retired clergy, provided the clergy member
4 or designee is trained in parenting education.

5 "f. An online parenting education course approved by
6 the court.

7 "(4) Persons providing the education classes may use
8 a curriculum that focuses specially on parenting education.

9 "(5) The education classes shall be completed prior
10 to the final decree of divorce and shall consist of a minimum
11 of three hours, unless the parties reconcile prior to
12 completion of the education classes. Parenting education in
13 which the parties have participated at any time within six
14 months prior to the filing of the petition for legal
15 separation or divorce shall also count toward the hourly
16 requirements set forth in this subdivision, if the parenting
17 education focused substantially on the potential impact on
18 children of separation or divorce. The parties may
19 individually elect to participate in the education classes
20 together or separately. Whether the parties participate in the
21 education classes together or separately, each party shall
22 participate for a minimum of three hours.

23 "(6) After a party has completed the education
24 classes, the person providing the education classes shall
25 provide the participating party with a certificate of
26 completion or a letter of verification or some other written
27 documentation indicating completion of the education classes.

1 The person providing education classes may also provide to the
2 party a list of resources for mental health counseling,
3 marital counseling, child counseling, and other support
4 services that may be available in the community to the party
5 and the party's children.

6 "(7) The court may either provide for indigent
7 parties to complete the education classes required by this
8 section or may waive the requirement.

9 "(h) The parties may elect to attend the education
10 classes together unless one of the following circumstances
11 exist:

12 "(1) A protective order has been issued against one
13 of the parties.

14 "(2) There have been allegations of violence within
15 the marriage.

16 "(3) One of the parties prefers to attend the
17 education class without his or her spouse.

18 "(i) The court shall not require the education
19 classes prescribed in subsection (g) if:

20 "(1) Service of process was satisfied by publication
21 and the whereabouts of one of the parties cannot be
22 determined.

23 "(2) One of the parties to the marriage at the time
24 of the action is incarcerated.

25 "(3) The youngest child of the parties is within six
26 months of his or her eighteenth birthday.

1 "(4) One of the parties to the proceeding does not
2 live in this state.

3 "(5) The parties have been living separate and apart
4 for more than two years.

5 "(6) Good cause is shown to the court justifying a
6 waiver.

7 "(j) If the petition for legal separation or divorce
8 is not dismissed, the costs, if any, associated with the
9 education classes required by subsection (g) shall be paid by
10 the participating parties in accordance with a schedule of
11 costs as determined by an order in each judicial circuit."

12 Section 3. All laws or parts of laws which conflict
13 with this act are repealed.

14 Section 4. This act shall become effective on the
15 first day of the third month following its passage and
16 approval by the Governor, or its otherwise becoming law.