

1 AN ACT relating to divorce.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 403.044 is amended to read as follows:

4 In divorce actions in which there are minor children who are the issue of the marriage, no
5 testimony other than on temporary motions ***or pursuant to subsection (1) of Section 2 of***
6 ***this Act*** shall be taken or heard before ***one hundred eighty (180)***~~[sixty (60)]~~ days have
7 elapsed from the date of service of summons, the appointment of a warning order
8 attorney, or the filing of an entry of appearance or a responsive pleading by the defendant,
9 whichever occurs first.

10 ➔Section 2. KRS 403.170 is amended to read as follows:

11 (1) ***Except as provided in subsection (4) of this section,*** if ***one (1)***~~[both]~~ of the parties
12 by petition or otherwise ***has***~~[have]~~ stated under oath or affirmation that the marriage
13 is irretrievably broken, ~~[or one of the parties has so stated and the other has not~~
14 ~~denied it,]~~the court ***shall conduct a hearing, with the parties present, within sixty***
15 ***(60) days of the filing of the petition. At the***~~[, after]~~ hearing, ***the court*** shall
16 ***consider all relevant factors, including the circumstances that gave rise to filing***
17 ***the petition, the best interests of any children, and the prospect of reconciliation,***
18 ***and shall:***

19 ***(a) Make a finding whether the marriage is irretrievably broken; or***

20 ***(b) Continue the matter for further hearing not more than ninety (90) days***
21 ***later, or as soon thereafter as the matter may be reached on the court's***
22 ***calendar, and may suggest to the parties that they seek counseling. The***
23 ***court, at the request of either party shall, or on its own motion may, order a***
24 ***divorce assessment consultation, designed to allow the parties to determine***
25 ***their interest in reconciliation and led by a qualified mental health***
26 ***practitioner as defined in KRS 202A.011, as a part of the hearing. At the***
27 ***adjourned hearing the court shall*** make a finding whether the marriage is

1 irretrievably broken.

2 **(2) Except as provided in subsection (4) of this section,** no decree shall be entered
 3 until the parties have lived apart for **one hundred eighty (180)**~~[60]~~ days. Living
 4 apart shall include living under the same roof without sexual cohabitation. ~~[The~~
 5 ~~court may order a conciliation conference as a part of the hearing.]~~

6 ~~[(2) If one of the parties has denied under oath or affirmation that the marriage is~~
 7 ~~irretrievably broken, the court shall consider all relevant factors, including the~~
 8 ~~circumstances that gave rise to filing the petition and the prospect of reconciliation,~~
 9 ~~and shall:~~

10 ~~(a) Make a finding whether the marriage is irretrievably broken; or~~

11 ~~(b) Continue the matter for further hearing not fewer than 30 nor more than 60~~
 12 ~~days later, or as soon thereafter as the matter may be reached on the court's~~
 13 ~~calendar, and may suggest to the parties that they seek counseling. The court,~~
 14 ~~at the request of either party shall, or on its own motion may, order a~~
 15 ~~conciliation conference. At the adjourned hearing the court shall make a~~
 16 ~~finding whether the marriage is irretrievably broken.]~~

17 (3) A finding **that a marriage is irretrievably broken**~~[of irretrievable breakdown]~~ is a
 18 determination that there is no reasonable prospect of reconciliation.

19 **(4) The court may, at any time, make a finding that the marriage is irretrievably**
 20 **broken and issue a decree of divorce, if:**

21 **(a) The court finds, at a hearing pursuant to subsection (1) of this section, that**
 22 **the marriage is irretrievably broken;**

23 **(b) A domestic violence order has been entered at any time between the parties;**

24 **(c) There are no minor children who are the issue of the marriage;**

25 **(d) One (1) of the parents has abandoned the children for a period of not less**
 26 **than twelve (12) months; or**

27 **(e) The respondent has been incarcerated for a period of not less than six (6)**

1 *months and is not expected to be released from custody within six (6)*
2 *months.*