

2023 Regular Session

HOUSE BILL NO. 7

BY REPRESENTATIVE MUSCARELLO

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CIVIL/PROCEDURE: Provides relative to default judgments

1 AN ACT

2 To enact Code of Civil Procedure Article 1702(F)(3), relative to confirmation of default

3 judgments; to provide relative to divorce; to provide relative to notice to a defendant;

4 and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Civil Procedure Article 1702(F)(3) is hereby enacted to read as

7 follows:

8 Art. 1702. Default judgment

9 * * *

10 F.

11 * * *

12 (3) The notice requirements contained in Paragraph A of this Article shall

13 not apply when the plaintiff intends to obtain a default judgment for a demand for

14 divorce as provided by this Paragraph.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 7 Original

2023 Regular Session

Muscarello

Abstract: Provides that certain notice requirements for default judgments do not apply when the plaintiff intends to obtain a default judgment for divorce.

Present law (C.C.P. Art. 1702) provides for default judgments. Present law provides that the plaintiff shall provide notice of intent to obtain a default judgment to the defendant in the following circumstances:

- (1) If the defendant in the principal or incidental demand fails to file an answer or other pleadings within the prescribed time and the plaintiff establishes a prima facie case.
- (2) If a party who fails to answer has made an appearance of record in the case.
- (3) If an attorney for a party who fails to answer has contacted the plaintiff or plaintiff's attorney concerning the action after it has been filed.
- (4) In delictual actions, to an unrepresented defendant who has not made an appearance.

Present law provides for default judgments for demands for divorce pursuant to C.C. Art. 103(1) and (5).

Present law (C.C. Art. 103(1)) provides for divorce for spouses that have been living separate and apart continuously for the requisite period of time or more on the date the petition is filed.

Present law (C.C. Art. 103(5)) provides for divorce after a protective order or injunction was issued during the marriage against the other spouse to protect the spouse seeking the divorce or a child of one of the spouses from abuse.

Proposed law provides that the notice requirements in present law (C.C.P. 1702) shall not be required when the plaintiff intends to obtain a default judgment for divorce under C.C. Art. 103(1) or 103(5).

(Adds C.C.P. Art. 1702(F)(3))