

SENATE BILL NO. 292

BY SENATORS MORRELL, ALARIO, APPEL, BROOME, BROWN, BUFFINGTON, DORSEY-COLOMB, HEITMEIER, LAFLEUR, LONG, MILLS, MURRAY, NEVERS, PETERSON, GARY SMITH, TARVER AND WARD AND REPRESENTATIVES ADAMS, WESLEY BISHOP, BURRELL, HAZEL, HOWARD, JAMES, JOHNSON, LAMBERT, MORENO, THIBAUT AND WILLMOTT

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AN ACT

To amend and reenact Civil Code Articles 103, 103.1, 112, and 113 and to enact Civil Code Article 118 and R.S. 9:327, relative to divorce proceedings; to provide grounds for immediate divorce, interim support, and final support in certain instances involving domestic abuse; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Civil Code Articles 103, 103.1, 112, and 113 are hereby amended and reenacted and Civil Code Article 118 is hereby enacted to read as follows:

Art. 103. Judgment of divorce; other grounds

Except in the case of a covenant marriage, a divorce shall be granted on the petition of a spouse upon proof that:

(1) The spouses have been living separate and apart continuously for the requisite period of time, in accordance with Article 103.1, or more on the date the petition is filed;

(2) The other spouse has committed adultery; ~~or,~~

(3) The other spouse has committed a felony and has been sentenced to death or imprisonment at hard labor.

(4) The other spouse has physically or sexually abused the spouse seeking divorce or a child of one of the spouses, regardless of whether the other spouse was prosecuted for the act of abuse.

(5) After a contradictory hearing or consent decree, a protective order or an injunction has been issued, in accordance with law, against the other spouse to protect the spouse seeking the divorce or a child of one of the spouses from abuse.

1 Art. 103.1. Judgment of divorce; time periods

2 The requisite periods of time, in accordance with Articles 102 and 103 shall
3 be as follows:

4 (1) One hundred eighty days: where there are no minor children of the
5 marriage.

6 ~~(a) Where there are no minor children of the marriage; or~~

7 ~~(b) Upon a finding by the court, pursuant to a rule to show cause, that the~~
8 ~~other spouse has physically or sexually abused the spouse seeking divorce or a child~~
9 ~~of one of the spouses; or~~

10 ~~(c) If, after a contradictory hearing or consent decree, a protective order or~~
11 ~~an injunction has been issued, in accordance with law, against the other spouse to~~
12 ~~protect the spouse seeking the divorce or a child of one of the spouses from abuse.~~

13 (2) Three hundred sixty-five days when there are minor children of the
14 marriage at the time the rule to show cause is filed in accordance with Article 102
15 or a petition is filed in accordance with Article 103.

16 * * *

17 Art. 112. Determination of final periodic support

18 A. When a spouse has not been at fault prior to the filing of a petition for
19 divorce and is in need of support, based on the needs of that party and the ability of
20 the other party to pay, that spouse may be awarded final periodic support in
21 accordance with Paragraph BC of this Article.

22 B. When a spouse has not been at fault prior to the filing of a petition for
23 divorce and the court determines that party was the victim of domestic abuse
24 committed during the marriage by the other party, that spouse shall be awarded
25 final periodic support or a lump sum award, at the discretion of the court, in
26 accordance with Paragraph C of this Article.

27 C. The court shall consider all relevant factors in determining the amount
28 and duration of final support. ~~Those factors may include,~~ including:

29 (1) The income and means of the parties, including the liquidity of such
30 means.

- 1 (2) The financial obligations of the parties.
- 2 (3) The earning capacity of the parties.
- 3 (4) The effect of custody of children upon a party's earning capacity.
- 4 (5) The time necessary for the claimant to acquire appropriate education,
- 5 training, or employment.
- 6 (6) The health and age of the parties.
- 7 (7) The duration of the marriage.
- 8 (8) The tax consequences to either or both parties.
- 9 **(9) The existence, effect, and duration of any act of domestic abuse**
- 10 **committed by the other spouse upon the claimant, regardless of whether the**
- 11 **other spouse was prosecuted for the act of domestic violence.**

12 ~~C.D.~~ The sum awarded under this Article shall not exceed one-third of the
 13 obligor's net income; **however, where support is awarded pursuant to Paragraph**
 14 **B of this Article, the sum awarded may exceed one-third of the obligor's net**
 15 **income.**

16 Art. 113. Interim spousal support allowance pending final spousal support award

17 **A.** Upon motion of a party or when a demand for final spousal support is
 18 pending, the court may award a party an interim spousal support allowance based on
 19 the needs of that party, the ability of the other party to pay, and the standard of living
 20 of the parties during the marriage, which award of interim spousal support allowance
 21 shall terminate upon the rendition of a judgment of divorce.

22 **B.** If a claim for final spousal support is pending at the time of the rendition
 23 of the judgment of divorce, the interim spousal support award shall thereafter
 24 terminate upon rendition of a judgment awarding or denying final spousal support
 25 or one hundred eighty days from the rendition of judgment of divorce, whichever
 26 occurs first. The obligation to pay interim spousal support may extend beyond one
 27 hundred eighty days from the rendition of judgment of divorce, but only for good
 28 cause shown.

29 **C. Notwithstanding Paragraph B of this Article, if a claim for final**
 30 **spousal support is pending at the time of the rendition of a judgment of divorce**

1 pursuant to Article 103(4) or (5) and the final spousal support award does not
2 exceed the interim spousal support award, the interim spousal support award
3 shall thereafter terminate no less than one hundred eighty days from the
4 rendition of judgment of divorce. The obligation to pay final spousal support
5 shall not begin until after an interim spousal support award has terminated.

6 * * *

7 Art. 118. Other remedies affected

8 Failure to bring an action for divorce pursuant to Article 103(4) or (5)
9 or final spousal support pursuant to Article 112(B) shall in no way affect the
10 rights of the party to seek other remedies provided by law.

11 Section 2. R.S. 9:327 is hereby enacted to read as follows:

12 §327. Determination of domestic abuse for spousal support

13 A. In awarding final spousal support pursuant to Civil Code Article
14 112(B), the court shall consider any criminal conviction of the obligor spouse for
15 an offense committed against the claimant spouse during the course of the
16 marriage.

17 B. In the absence of a criminal conviction, the court may order an
18 evaluation of both parties that may be used to assist the court in determining
19 the existence and nature of the alleged domestic abuse. The evaluation shall be
20 conducted by an independent court-appointed mental health professional who
21 is an expert in the field of domestic abuse. The mental health professional shall
22 have no family, financial, or prior medical relationship with either party or
23 their attorneys of record. The mental health professional shall provide the
24 court and the parties with a written report of his findings.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____