

By: Dutton

H.B. No. 190

A BILL TO BE ENTITLED

AN ACT

relating to a suit for legal separation in a marriage.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Subtitle C, Title 1, Family Code, is amended to read as follows:

SUBTITLE C. DISSOLUTION OF MARRIAGE AND LEGAL SEPARATION

SECTION 2. The heading to Chapter 6, Family Code, is amended to read as follows:

CHAPTER 6. SUIT FOR DISSOLUTION OF MARRIAGE AND SUIT FOR LEGAL SEPARATION

SECTION 3. Chapter 6, Family Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. LEGAL SEPARATION

Sec. 6.851. ACTION AUTHORIZED. A person may file a suit for legal separation from the person's spouse as provided by this subchapter.

Sec. 6.852. GROUNDS FOR LEGAL SEPARATION. A court may render an order of legal separation on any of the grounds prescribed by Subchapter A for a divorce.

Sec. 6.853. JURISDICTION, VENUE, AND RESIDENCE QUALIFICATIONS. The provisions of Subchapter D regarding the jurisdiction, venue, and residence requirements in a suit for divorce apply to a suit for legal separation.

Sec. 6.854. PROCEDURE; FILING SUIT. The provisions of

1 Subchapter E regarding the filing of a suit, pleadings, and other  
2 procedural matters in a suit for divorce apply to a suit for legal  
3 separation.

4 Sec. 6.855. TEMPORARY ORDERS. In a suit for legal  
5 separation, a court may issue a temporary order as provided by  
6 Subchapter F.

7 Sec. 6.856. AWARD OF MARITAL PROPERTY. (a) The provisions  
8 of Chapter 7 regarding the award of marital property apply to a suit  
9 for legal separation.

10 (b) The earnings and accumulations of a spouse while living  
11 separate and apart from the other spouse under a legal separation  
12 are the separate property of the spouse.

13 (c) The debts incurred by a spouse while living separate and  
14 apart from the other spouse under a legal separation are the  
15 responsibility of the spouse who incurred the debt.

16 Sec. 6.857. MAINTENANCE. The provisions of Chapter 8  
17 regarding spousal maintenance apply to a suit for legal separation.

18 Sec. 6.858. MANDATORY JOINDER OF SUIT AFFECTING  
19 PARENT-CHILD RELATIONSHIP. (a) The petition in a suit for legal  
20 separation must state whether there are children born or adopted of  
21 the marriage who are under 18 years of age or who are otherwise  
22 entitled to child support as provided by Chapter 154.

23 (b) If the parties to the suit for legal separation are  
24 parents of a child and the child is not under the continuing  
25 jurisdiction of another court as provided by Chapter 155, the suit  
26 for legal separation must include a suit affecting the parent-child  
27 relationship under Title 5.

1        (c) The provisions of Section 6.407 regarding transfer of a  
2 suit affecting the parent-child relationship apply to a suit for  
3 legal separation.

4        Sec. 6.859. SUIT FOR LEGAL SEPARATION FILED DURING PENDENCY  
5 OF SUIT FOR DISSOLUTION OF MARRIAGE. If a party to a suit for  
6 dissolution of a marriage files suit for legal separation during  
7 the pendency of the suit for dissolution of the marriage:

8            (1) the suit for legal separation must be filed in the  
9 court having jurisdiction of the suit for dissolution of the  
10 marriage; and

11           (2) the court shall abate the suit for dissolution of  
12 the marriage and consider the suit for legal separation unless:

13                (A) the suit for dissolution of the marriage was  
14 filed one year or more before the date the suit for legal separation  
15 was filed; or

16                (B) both parties agree to the continuation of the  
17 suit for dissolution of the marriage.

18        Sec. 6.860. SUIT FOR DISSOLUTION OF MARRIAGE FILED DURING  
19 PENDENCY OF SUIT FOR LEGAL SEPARATION. If a party to a suit for  
20 legal separation files suit for dissolution of the marriage during  
21 the pendency of the suit for legal separation:

22            (1) the suit for dissolution of the marriage must be  
23 filed in the court having jurisdiction of the suit for legal  
24 separation; and

25            (2) the court shall abate the suit for legal  
26 separation and consider the suit for dissolution of the marriage  
27 only if:

1           (A) the suit for legal separation was filed one  
2 year or more before the date the suit for dissolution of the  
3 marriage was filed; or

4           (B) both parties agree to the continuation of the  
5 suit for legal separation.

6       Sec. 6.861. SUIT FOR DISSOLUTION OF MARRIAGE FILED AFTER  
7 ORDER OF LEGAL SEPARATION RENDERED. (a) The rendition of an order  
8 of legal separation does not preclude a party to the legal  
9 separation from filing a suit for dissolution of the marriage.

10       (b) The court shall consider a suit for dissolution of the  
11 marriage filed after an order of legal separation has been rendered  
12 only if:

13           (1) the suit for legal separation was filed one year or  
14 more before the date the suit for dissolution of the marriage was  
15 filed; or

16           (2) both parties agree to the continuation of the suit  
17 for dissolution of the marriage.

18       Sec. 6.862. EFFECT OF LEGAL SEPARATION ORDER; PROHIBITION  
19 AGAINST REMARRIAGE. An order of legal separation does not  
20 terminate the marriage and a party to a legal separation may not  
21 marry a third party.

22       Sec. 6.863. VACATING ORDER OF LEGAL SEPARATION. (a) The  
23 court that rendered an order of legal separation shall grant a  
24 petition to vacate the order of legal separation if the court finds  
25 that both spouses request that the court vacate the order.

26       (b) A petition to vacate an order of legal separation must  
27 be signed by both spouses and be filed with the court that rendered

1 the order of legal separation.

2 (c) On vacating the order of legal separation under this  
3 section, the court shall also vacate any order rendered in the suit  
4 affecting the parent-child relationship that was included in the  
5 suit for legal separation, unless the court finds that vacating  
6 that order is not in the best interest of the child.

7 Sec. 6.864. NATURE OF SPOUSES' PROPERTY AFTER ORDER  
8 VACATED. (a) Property awarded as separate property under an order  
9 of legal separation remains separate property after the date the  
10 order of legal separation is vacated under Section 6.863.

11 (b) The earnings and accumulations of a spouse while living  
12 separate and apart from the other spouse under a legal separation  
13 remain the separate property of the spouse.

14 (c) The debts incurred by a spouse while living separate and  
15 apart from the other spouse under a legal separation remain the  
16 responsibility of the spouse who incurred the debt.

17 (d) This subchapter does not prevent spouses from entering  
18 into an agreement regarding the conversion of separate property to  
19 community property under Subchapter C, Chapter 4, after the date  
20 the court vacates the order of legal separation under Section  
21 6.863.

22 SECTION 4. This Act takes effect January 1, 2014, but only  
23 if the constitutional amendment proposed by the 83rd Legislature,  
24 Regular Session, 2013, authorizing a court to partition the  
25 community property and to characterize future earnings of spouses  
26 as separate property on legal separation of the spouses is approved  
27 by the voters. If that amendment is not approved by the voters,

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1 this Act has no effect.