

By: Dutton

H.B. No. 354

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, 2016, but only
23 if the constitutional amendment proposed by the 84th Legislature,
24 Regular Session, 2015, 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,

1 this Act has no effect.