



Senate

General Assembly

File No. 710

January Session, 2015

Senate Bill No. 1029

Senate, April 16, 2015

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING A NONADVERSARIAL DISSOLUTION OF MARRIAGE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2015*) (a) An action for a
2 nonadversarial dissolution of marriage may be commenced by the
3 filing of a joint petition in the judicial district in which one of the
4 parties resides. The joint petition shall contain an attestation, under
5 oath, by each party that the conditions set forth in subsection (b) of this
6 section exist.

7 (b) An action brought pursuant to subsection (a) of this section may
8 proceed if, at the time of the filing of the action, the parties attest,
9 under oath, that the following conditions exist: (1) The marriage has
10 broken down irretrievably; (2) the duration of the marriage does not
11 exceed eight years; (3) neither party to the action is pregnant; (4) no
12 children were born to or adopted by the parties prior to, or during, the
13 marriage; (5) neither party has any interest or title in real property; (6)
14 the total combined fair market value of all property owned by either

15 party, excluding all encumbrances, is less than thirty-five thousand
16 dollars; (7) neither party has a pending petition for relief under the
17 United States Bankruptcy Code; (8) neither party is applying for or
18 receiving benefits pursuant to Title XIX of the Social Security Act; (9)
19 no other action for dissolution of marriage, civil union, legal separation
20 or annulment is pending in this state or in a foreign jurisdiction; (10) a
21 restraining order, issued pursuant to section 46b-15 of the general
22 statutes, or a protective order, issued pursuant to section 46b-38c of the
23 general statutes, between the parties is not in effect; and (11) the
24 residency provisions of section 46b-44 of the general statutes have been
25 satisfied. After the filing of the joint petition and prior to the court
26 entering a decree of dissolution of marriage pursuant to section 3 of
27 this act, if a change occurs with respect to any of the conditions set
28 forth in this subsection, one or both of the parties shall notify the court
29 forthwith of the changed condition.

30 (c) In addition to attesting to the conditions enumerated in
31 subsection (b) of this section, any joint petition filed pursuant to
32 subsection (a) of this section shall also state the date and place of
33 marriage and the current residential address for each party.

34 (d) A joint petition shall be accompanied by financial affidavits
35 completed by each party on a form prescribed by the Office of the
36 Chief Court Administrator, a request for the court to order the
37 restoration of a birth name or former name, if so desired by either
38 party, and a certification attested to by the parties, under oath, that: (1)
39 The parties agree to proceed by consent and waive service of process;
40 (2) neither party is acting under duress or coercion; and (3) each party
41 is waiving any right to a trial, alimony, spousal support or an appeal.

42 (e) If the parties submit a settlement agreement to the court that
43 they are requesting be incorporated into the decree of dissolution, such
44 settlement agreement shall be filed with the joint petition. Each party
45 shall attest, under oath, that the terms of the settlement agreement are
46 fair and equitable. If the court finds that the settlement agreement is
47 fair and equitable, it shall be incorporated by reference into the decree

48 of the court. If the court cannot determine whether such agreement is
49 fair and equitable, the matter shall be docketed for the court's review
50 in accordance with the provisions of section 4 of this act.

51 (f) The provisions of subsection (a) of section 46b-67 of the general
52 statutes, as amended by this act, shall not apply to a nonadversarial
53 dissolution action brought under this section.

54 Sec. 2. (NEW) (*Effective October 1, 2015*) (a) Any action for a
55 nonadversarial dissolution brought pursuant to section 1 of this act
56 may be revoked by either party by filing a notice of revocation with the
57 clerk of the court at any time prior to the court entering a decree of
58 dissolution. Such notice of revocation shall also be sent by the revoking
59 party to the other party by first-class mail, postage prepaid, at the
60 other party's residential address, as provided on the joint petition. The
61 filing of a notice of revocation with the clerk of the court shall
62 terminate the nonadversarial dissolution action.

63 (b) In the event that a notice of revocation is filed with the clerk of
64 the court pursuant to subsection (a) of this section, the action shall be
65 placed on the regular family docket of the Superior Court and all
66 provisions of chapter 815j of the general statutes, except for the
67 provisions of subsection (a) of section 46b-45 of the general statutes,
68 shall apply. No new filing fee shall be imposed by the court.

69 Sec. 3. (NEW) (*Effective October 1, 2015*) (a) All nonadversarial
70 dissolution actions brought pursuant to section 1 of this act shall be
71 assigned a disposition date not less than thirty days after the date on
72 which the parties filed the joint petition.

73 (b) If a notice of revocation, as provided for in section 2 of this act,
74 has not been filed prior to the disposition date, and the parties have
75 not been notified otherwise, the court may enter a decree of dissolution
76 of marriage on the disposition date, or not later than five days after the
77 disposition date, without a hearing, if it finds that the conditions set
78 forth in section 1 of this act exist, and that any settlement agreement
79 submitted by the parties is fair and equitable. In the event the court

80 enters a decree of dissolution of marriage, the clerk of the court shall
81 send a notice of the entry of a decree of dissolution of marriage to each
82 of the parties at the residential addresses provided on the joint
83 petition. The decree of dissolution of marriage shall give the parties the
84 status of unmarried persons and they may marry again.

85 (c) If the court enters a decree dissolving the marriage as provided
86 in subsection (b) of this section, the decree of dissolution of marriage
87 shall constitute a final adjudication of the rights and obligations of the
88 parties with respect to the status of the marriage and the property
89 rights of the parties.

90 (d) Nothing in this section shall prohibit either party to the
91 dissolution from commencing an action to set aside the final judgment
92 for fraud, duress, accident, mistake or other grounds recognized at law
93 or in equity.

94 Sec. 4. (NEW) (*Effective October 1, 2015*) (a) If after review of a
95 settlement agreement filed pursuant to subsection (e) of section 1 of
96 this act, the court cannot determine whether such settlement
97 agreement is fair and equitable, the matter shall be docketed on a date
98 not later than thirty days after the assigned disposition date and the
99 court shall command that the parties appear before the court on such
100 date. If the court determines that the settlement agreement is fair and
101 equitable, the court may enter a decree of dissolution of marriage. If
102 the court is unable to make such a determination, the court may order
103 the termination of the nonadversarial dissolution action and order that
104 the matter be placed on the regular family docket of the Superior
105 Court.

106 (b) If after review of the joint petition, the court does not enter a
107 decree of dissolution of marriage pursuant to subsection (b) of section
108 3 of this act, the matter shall be docketed on a date not later than thirty
109 days after the assigned disposition date and the court shall command
110 that the parties appear before the court in order for the court to
111 determine if the criteria in section 1 have been met, and whether a
112 decree of dissolution of marriage may enter. If the court does not enter

113 the decree of dissolution of marriage, the court may order the
114 termination of the nonadversarial dissolution action and order that the
115 matter be placed on the regular family docket of the Superior Court.

116 Sec. 5. Section 46b-67 of the general statutes is repealed and the
117 following is substituted in lieu thereof (*Effective October 1, 2015*):

118 (a) Following the expiration of ninety days after the day on which a
119 complaint for dissolution or legal separation is made returnable, or
120 after the expiration of six months, where proceedings have been stayed
121 under section 46b-53, the court may proceed on the complaint, or
122 whenever dissolution is claimed under cross complaint, amended
123 complaint or amended cross complaint, the case may be heard and a
124 decree granted thereon after the expiration of the ninety days and
125 twenty days after the cross complaint, amended complaint or
126 amended cross complaint has been filed with the court, provided the
127 requirement of the twenty-day delay shall not apply (1) whenever
128 opposing counsel, having appeared, consents to the cross complaint,
129 amended complaint or amended cross complaint, or (2) where the
130 defendant has not appeared and the amendment does not set forth
131 either a cause of action or a claim for relief not in the original
132 complaint. Nothing in this section shall prevent any interlocutory
133 proceedings within the ninety-day period.

134 (b) If the parties attest, under oath, that they have an agreement as
135 to all terms of the dissolution of marriage or legal separation and wish
136 the court to enter a decree of dissolution of marriage or legal
137 separation prior to the expiration of the time periods set forth in
138 subsection (a) of this section, and file a motion seeking the waiver of
139 said time periods, the court may waive the provisions of subsection (a)
140 of this section.

141 [(b)] (c) A decree of annulment or dissolution shall give the parties
142 the status of unmarried persons and they may marry again. A decree
143 of legal separation shall have the effect of a decree dissolving the
144 marriage except that neither party shall be free to marry. Neither the
145 ninety-day period specified in this section nor the six-month period

146 referred to in section 46b-53 shall apply in actions for annulment and
147 the court may proceed on any cause of action for annulment in the
148 manner generally applicable in civil actions.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015</i>	New section
Sec. 2	<i>October 1, 2015</i>	New section
Sec. 3	<i>October 1, 2015</i>	New section
Sec. 4	<i>October 1, 2015</i>	New section
Sec. 5	<i>October 1, 2015</i>	46b-67

JUD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

The bill creates an expedited process for divorces that fit specified criteria. While it is anticipated that the bill will expedite the process, the bill is not anticipated to result in a fiscal impact as the court system disposes of over 500,000 cases annually.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**SB 1029*****AN ACT CONCERNING A NONADVERSARIAL DISSOLUTION OF MARRIAGE.*****SUMMARY:**

This bill creates a new expedited court process that allows a judge to enter a divorce decree without a hearing for certain nonadversarial divorce actions. Among other things, it:

1. allows parties to file a joint petition to begin the process if, among other things, at least one party is a Connecticut resident, the marriage duration is no more than eight years, the parties have no children or real property, and the total combined net fair market value of all property owned by either party is less than \$35,000;
2. requires the joint petition be accompanied by certain documents, including financial affidavits and waiver of any right to a trial, alimony, spousal support, or an appeal;
3. allows a settlement agreement to be incorporated in the divorce decree if the court finds it to be fair and equitable;
4. allows parties to revoke the nonadversarial expedited process at any time before the court enters a decree; and
5. establishes timeframes for court review and termination of the expedited process.

The bill requires the court to place the action on the Superior Court's regular family court docket if it does not enter a divorce decree after review of the joint petition and any related settlement agreement.

The bill also allows parties to a divorce or legal separation action that are on the Superior Court's regular family docket to waive existing law's waiting periods for such actions if the parties have an agreement, make certain attestations, and request such waiver.

EFFECTIVE DATE: October 1, 2015

NONADVERSARIAL DIVORCE

Under the bill, if certain conditions exist, parties to a marriage may begin an action for a nonadversarial divorce by filing a joint petition in the judicial district in which one of the parties resides.

Conditions

The action may proceed if, at the time of filing the action, the parties attest, under oath, that:

1. the marriage has broken down irretrievably;
2. they have not been married for more than eight years;
3. neither party is pregnant;
4. no children were born to or adopted by the parties prior to, or during, the marriage;
5. neither party has any interest or title in real property;
6. the total combined fair market value of all property owned by either party, excluding all encumbrances, is less than \$35,000;
7. neither party has filed for bankruptcy;
8. neither party is applying for or receiving Medicaid benefits;
9. no other action for dissolution of marriage, civil union, legal separation, or annulment is pending in any jurisdiction;
10. no civil restraining order or protective order between the parties is in effect; and

11. at least one party is a Connecticut resident.

One or both parties must notify the court if any of these conditions changes before the court enters the divorce decree.

Other Requirements and Supporting Documents

In addition to attesting to the conditions above, the joint petition must also state the date and place of marriage and each party's current residential address and be accompanied by:

1. financial affidavits completed by each party on a form prescribed by the chief court administrator's office;
2. a request for the restoration of a birth name or former name, if so desired by either party;
3. a certification attested to by the parties, under oath, that (a) they agree to proceed by consent and waive service of process; (b) neither party is acting under duress or coercion; and (c) each party is waiving any right to a trial, alimony, spousal support, or an appeal; and
4. a settlement agreement, if the parties wish to have one incorporated in the divorce decree.

Revocation

Either party may revoke a nonadversarial divorce action by filing a notice of revocation with the court clerk at any time before the court enters the divorce decree. The revoking party must notify the other party by first-class mail, postage prepaid, at the other party's residential address provided on the joint petition. Under the bill, the filing of a revocation notice terminates the nonadversarial divorce action.

If a party files a revocation notice, the action must be placed on the Superior Court's regular family docket and the provisions that govern divorce under existing law apply, except for service of process and complaint filing requirements. The bill prohibits the court from

imposing new filing fees.

Decree of Dissolution Without a Hearing

All nonadversarial dissolution actions must be assigned a disposition date at least 30 days after the petition filing date. The required 90-day waiting period under existing law for divorce actions on the Superior Court's regular family docket does not apply to nonadversarial divorce actions.

If a notice of revocation has not been filed and the parties have not been notified otherwise, the court may enter a divorce decree without a hearing. It may do so on the disposition date, or within five days after the disposition date, if it finds that (1) the required conditions exist and (2) any settlement agreement is fair and equitable (see below). If the court enters a divorce decree without a hearing, the clerk must send a notice to each party at the residential addresses provided on the joint petition.

Under the bill, such a divorce decree gives the parties the status of unmarried persons and they may marry again. The divorce decree is a final adjudication of the parties' rights and obligations with respect to their marriage and property rights.

The bill does not prohibit either party from initiating an action to set aside the final judgment for fraud, duress, accident, mistake, or other legal or equitable grounds.

Court's Review of the Joint Petition and Supporting Documents

If, after review of the joint petition, the court does not enter a divorce decree, the matter must be placed on the docket on a date within 30 days after the assigned disposition date and the court must require the parties to appear in court in order for the court to determine whether (1) the conditions and other criteria for a nonadversarial dissolution of marriage have been met and (2) a divorce decree may be entered. If the court does not enter the decree of dissolution of marriage, it may terminate the nonadversarial dissolution action and place the matter on the Superior Court's regular

family docket.

Settlement Agreement

If the parties wish to have a settlement agreement incorporated into the nonadversarial divorce decree, they must submit it to the court with the joint petition. Each party must attest, under oath, that the terms of the settlement agreement are fair and equitable. If the court finds that the settlement agreement is fair and equitable, the court must incorporate the agreement by reference into the decree.

Court Cannot Make a Determination. If after review the court cannot determine whether the settlement agreement is fair and equitable, the matter must be placed on the docket on a date within 30 days after the assigned disposition date and the court must order the parties to appear in court on that date.

Court Finds Agreement is Not Fair and Equitable on its Face. If the court cannot determine the agreement to be fair and equitable, it may terminate the nonadversarial divorce action and place the matter on the Superior Court's regular family docket.

DIVORCE OR LEGAL SEPARATION WAITING PERIOD WAIVER

The bill allows the court, upon request and under certain circumstances, to waive the waiting periods prescribed under existing law for divorce or legal separation actions on the Superior Court's regular family docket. The court may do so for parties who (1) file a motion requesting such a waiver and (2) attest, under oath, that they have an agreement as to the terms of the divorce or legal separation; (3) and wish the court to enter a divorce decree or legal separation before the waiting periods expire.

Under existing law, parties to such actions must wait 90 days before the court may issue an order but a longer period may apply if a party requests conciliation, a party fails to attend a requested conciliation, or a cross or amended complaint is filed.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 39 Nay 3 (03/27/2015)