

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL 445

Short Title: Domestic Violence Victims' Separation Waiver. (Public)

Sponsors: Senators deViere, Marcus, and Sawyer (Primary Sponsors).

Referred to: Rules and Operations of the Senate

April 1, 2021

A BILL TO BE ENTITLED

AN ACT TO WAIVE THE REQUIRED ONE-YEAR PERIOD OF SEPARATION FOR
ABSOLUTE DIVORCE WHEN A PERSON IN THE MARRIAGE IS A VICTIM OF
DOMESTIC VIOLENCE AND TO APPROPRIATE FUNDS FOR AN AWARENESS
CAMPAIGN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50-6 reads as rewritten:

"§ 50-6. Divorce after separation of one year on application of either party.

(a) Marriages—Except as provided in subsection (b) of this section, marriages may be dissolved and the parties thereto divorced from the bonds of matrimony on the application of either party, if and when the husband and wife have lived separate and apart for one year, and the plaintiff or defendant in the suit for divorce has resided in the State for a period of six months.

(b) If a person in the marriage is a victim of domestic violence, as defined under G.S. 50B-1, and the person's spouse by marriage is responsible for committing that act of domestic violence, the person who is the victim of domestic violence may seek a divorce without having to meet the one-year period of separation. In making application for divorce pursuant to this subsection, the application shall contain each of the following:

(1) A statement by the applicant that the applicant is a victim of domestic violence.

(2) Evidence that the applicant is a victim of domestic violence, which evidence shall include at least two of the following:

a. Law enforcement, court, or other federal or State agency records or files.

b. Documentation from a domestic violence program, if the applicant is alleged to be the victim of domestic violence.

c. Documentation from a medical or other professional from whom the applicant has sought assistance in dealing with the alleged domestic violence.

(c) A divorce under this section shall not be barred to either party by any defense or plea based upon any provision of G.S. 50-7, a plea of res judicata, or a plea of recrimination. Notwithstanding the provisions of G.S. 50-11, or of the common law, a divorce under this section shall not affect the rights of a dependent spouse with respect to alimony which have been asserted in the action or any other pending action.

(d) Whether there has been a resumption of marital relations during the period of separation shall be determined pursuant to G.S. 52-10.2. Isolated incidents of sexual intercourse



1 between the parties shall not toll the statutory period required for divorce predicated on separation
2 of one year."

3 **SECTION 2.(a)** There is appropriated from the General Fund to the Governor's
4 Crime Commission the sum of thirty thousand dollars (\$30,000) in nonrecurring funds for the
5 2021-2022 fiscal year to implement an awareness campaign about domestic violence victims'
6 separation waivers in accordance with this act.

7 **SECTION 2.(b)** This section becomes effective July 1, 2021.

8 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes law
9 and applies to actions commenced on or after that date.