

BILL ANALYSIS

Senate Research Center
77R6377 KSD-D

S.B. 1292
By: Van de Putte
Jurisprudence
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DIGEST AND PURPOSE

Currently, Texas law does not allow for legal separation. As proposed, S.B. 1292 creates a mechanism whereby spouses may file for legal separation in Texas.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Title 1C, Family Code, to read as follows:

SUBTITLE C. DISSOLUTION OF MARRIAGE
AND LEGAL SEPARATION

SECTION 2. Amends the heading to Chapter 6, Family Code, to read as follows:

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

SECTION 3. Amends Chapter 6, Family Code, by adding Subchapter J, as follows:

SUBCHAPTER J. LEGAL SEPARATION

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

Sec. 6.852. GROUNDS FOR LEGAL SEPARATION. Authorizes a court to render an order of legal separation on any grounds that a court may grant a divorce under Subchapter A.

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

Sec. 6.854. PROCEDURE; FILING SUIT. Provides that the provisions of Subchapter E regarding the filing of a suit, pleadings, and other procedural matters apply to a suit for legal separation.

Sec. 6.855. TEMPORARY ORDERS. Authorizes a court, in a suit for legal separation, to issue a temporary order as provided by Subchapter F.

Sec. 6.856. MARITAL PROPERTY AGREEMENT; CHARACTER OF PROPERTY. (a) Authorizes the parties to a suit for legal separation to enter into a written marital property

agreement for the partition or exchange of community property as provided by Section 4.102, or regarding the income or property arising from separate property as provided by Section 4.103.

(b) Authorizes the court to approve a marital property agreement described by Subsection (a) and incorporate the agreement into the court's order of legal separation.

(c) Provides that, if the court approves the marital property agreement and incorporates the agreement into the court's order of legal separation, the agreement survives the legal separation and is binding on the parties to the agreement in the event of a subsequent divorce of the parties.

(d) Provides that, except as provided by this section or as otherwise provided by law, an order of legal separation does not affect the character of the parties' property or the character of future income acquired by the parties.

Sec. 6.857. MAINTENANCE AGREEMENT. Authorizes the parties to a suit for legal separation to enter into an agreement under which one spouse agrees to pay maintenance to the other spouse.

Sec. 6.858. LIABILITIES. Provides that an order of legal separation does not affect the liabilities of the parties as to third persons.

Sec. 6.859. MANDATORY JOINDER OF SUIT AFFECTING PARENT-CHILD RELATIONSHIP. (a) Requires the petition in a suit for legal separation to state whether there are children born or adopted of the marriage who are under 18 years of age or who are otherwise entitled to child support as provided by Chapter 154.

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

(c) Provides that the provisions of Section 6.407 regarding transfer of a suit affecting the parent-child relationship apply to a suit for legal separation.

Sec. 6.860. SUIT FOR DISSOLUTION OF MARRIAGE FILED DURING PENDENCY OF SUIT FOR LEGAL SEPARATION. Requires the suit for dissolution of the marriage, if a party to a suit for legal separation files suit for dissolution of the marriage during the pendency of the suit for legal separation, to be filed in the court having jurisdiction of the suit for legal separation. Requires the court, on the filing of the suit for dissolution of the marriage, to abate the suit for legal separation pending resolution of the suit for dissolution of the marriage.

Sec. 6.861. SUIT FOR DISSOLUTION OF MARRIAGE FILED AFTER ORDER OF LEGAL SEPARATION RENDERED. Provides that the rendition of an order of legal separation does not preclude a party to the legal separation from filing a suit for dissolution of the marriage.

Sec. 6.862. EFFECT OF LEGAL SEPARATION ORDER; PROHIBITION AGAINST REMARRIAGE. Provides that an order of legal separation does not terminate the marriage and a party to a legal separation may not marry a third party.

SECTION 4. Effective date: September 1, 2001.