

088781216

SENATE BILL NO. 725

Offered January 17, 2008

A *BILL to amend and reenact § 20-91 of the Code of Virginia, relating to grounds for divorce; minor children.*

Patron—Cuccinelli

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 20-91 of the Code of Virginia is amended and reenacted as follows:**

§ 20-91. Grounds for divorce from bond of matrimony; contents of decree.

A. A divorce from the bond of matrimony may be decreed:

(1) For adultery; or for sodomy or buggery committed outside the marriage;

(2) —Repealed.]

(3) Where either of the parties subsequent to the marriage has been convicted of a felony, sentenced to confinement for more than one year and confined for such felony subsequent to such conviction, and cohabitation has not been resumed after knowledge of such confinement (in which case no pardon granted to the party so sentenced shall restore such party to his or her conjugal rights);

(4), (5) —Repealed.]

(6) Where either party has been guilty of cruelty, caused reasonable apprehension of bodily hurt, or willfully deserted or abandoned the other, such divorce may be decreed to the innocent party after a period of one year from the date of such act; or

(7), (8) —Repealed.]

(9) (a) On the application of either party if and when the husband and wife have lived separate and apart without any cohabitation and without interruption for one year. In any case where the parties have entered into a separation agreement and there are no minor children either born of the parties, born of either party and adopted by the other or adopted by both parties, a divorce may be decreed on application if and when the husband and wife have lived separately and apart without cohabitation and without interruption for six months. A plea of res adjudicata or of recrimination with respect to any other provision of this section shall not be a bar to either party obtaining a divorce on this ground; nor shall it be a bar that either party has been adjudged insane, either before or after such separation has commenced, but at the expiration of one year or six months, whichever is applicable, from the commencement of such separation, the grounds for divorce shall be deemed to be complete, and the committee of the insane defendant, if there be one, shall be made a party to the cause, or if there be no committee, then the court shall appoint a guardian ad litem to represent the insane defendant.

(b) This subdivision (9) shall apply whether the separation commenced prior to its enactment or shall commence thereafter. Where otherwise valid, any decree of divorce hereinbefore entered by any court having equity jurisdiction pursuant to this subdivision (9), not appealed to the Supreme Court of Virginia, is hereby declared valid according to the terms of said decree notwithstanding the insanity of a party thereto.

(c) A decree of divorce granted pursuant to this subdivision (9) shall in no way lessen any obligation any party may otherwise have to support the spouse unless such party shall prove that there exists in the favor of such party some other ground of divorce under this section or § 20-95.

(d) *Except in cases where either party has been adjudged insane, this subdivision (9) shall not apply to marriages entered under a license issued after July 1, 2008, if (i) there are minor children born of the parties, born of either party and adopted by the other, or adopted by both parties, and (ii) either party files a written objection to the granting of a divorce pursuant to this subdivision, which objection may be withdrawn at any time in the proceeding.*

B. A decree of divorce shall include each party's social security number, or other control number issued by the Department of Motor Vehicles pursuant to § 46.2-342.

INTRODUCED

SB725