

By: Senator(s) Williamson

To: Judiciary, Division A

SENATE BILL NO. 2601

1 AN ACT TO AMEND SECTION 93-5-2, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE GROUNDS FOR AN IRRECONCILABLE DIFFERENCES DIVORCE; AND
3 FOR RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 **SECTION 1.** Section 93-5-2, Mississippi Code of 1972, is
6 amended as follows:

7 93-5-2. (1) Divorce from the bonds of matrimony may be
8 granted on the ground of irreconcilable differences, * * * upon
9 the single application of either the husband and wife or a
10 complaint where the defendant has been * * * served with process
11 or where the defendant has entered an appearance by written waiver
12 of process.

13 (2) If the parties provide by written agreement for the
14 custody and maintenance of any children of that marriage and for
15 the settlement of any property rights between the parties and the
16 court finds that such provisions are adequate and sufficient, the
17 agreement may be incorporated in the judgment, and such judgment
18 may be modified as other judgments for divorce.

19 (3) If the parties are unable to agree upon adequate and
20 sufficient provisions for the custody and maintenance of any
21 children of that marriage or any property rights between
22 them, * * * the court shall decide the issues upon which they
23 cannot agree. * * * The failure or refusal of either party to
24 agree as to adequate and sufficient provisions for the custody and
25 maintenance of any children of that marriage or any property
26 rights between the parties, or any portion of such issues, * * *
27 shall not be used as evidence, or in any manner, against such

28 party. No divorce shall be granted pursuant to this subsection
29 until all matters involving custody and maintenance of any child
30 of that marriage and property rights between the parties raised by
31 the pleadings have been either adjudicated by the court or agreed
32 upon by the parties and found to be adequate and sufficient by the
33 court and included in the judgment of divorce. Appeals from any
34 orders and judgments rendered pursuant to this subsection may be
35 had as in other cases in chancery court * * *.

36 (4) Complaints for divorce on the ground of irreconcilable
37 differences must have been on file for sixty (60) days before
38 being heard. Except as otherwise provided in subsection (3) of
39 this section, a joint complaint for divorce solely on the ground
40 of irreconcilable differences of husband and wife, or a complaint
41 where the defendant has been personally served with process or
42 where the defendant has entered an appearance by written waiver of
43 process, * * * shall be taken as proved and a final judgment
44 entered thereon, as in other cases and without proof or testimony
45 in termtime or vacation, the provisions of Section 93-5-17 to the
46 contrary notwithstanding.

47 (5) * * * A divorce * * * on the ground of irreconcilable
48 differences may be granted upon the single application of either
49 the husband or wife even though the other spouse enters a contest
50 or denial, provided that the petitioning husband or wife states
51 that the marriage is irretrievably broken and cannot be
52 reconciled.

53 (6) Irreconcilable differences may be asserted as a sole
54 ground for divorce or as an alternate ground for divorce with any
55 other cause for divorce set out in Section 93-5-1.

56 **SECTION 2.** This act shall take effect and be in force from
57 and after July 1, 2005.