

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999

# A Bill

HOUSE BILL 2112

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By: Representatives Womack, Bledsoe, Bush, Duggar, Eason, Files, Hendren, Magnus, Morris, Rackley,  
Scrimshire, M. Smith, Wilkins, Willis

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## For An Act To Be Entitled

10 "AN ACT TO AMEND ARKANSAS CODE 9-12-301 TO REMOVE  
11 INDIGNITIES FROM THE LIST OF GROUNDS FOR DIVORCE; AND  
12 FOR OTHER PURPOSES. "

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## Subtitle

15 "AN ACT TO REMOVE INDIGNITIES FROM THE  
16 LIST OF GROUNDS FOR DIVORCE. "

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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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21 SECTION 1. Arkansas Code 9-12-301 is amended to read as follows:

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"9-12-301. Grounds for divorce.

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The chancery court shall have power to dissolve and set aside a marriage  
24 contract, not only from bed and board, but from the bonds of matrimony, for  
25 the following causes:

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(1) Where either party, at the time of the contract, was and  
27 still is impotent;

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(2) [Repealed.]

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(3) Where either party shall be convicted of a felony or other  
30 infamous crime;

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(4) Where either party shall be addicted to habitual drunkenness  
32 for one (1) year, shall be guilty of such cruel and barbarous treatment as to  
33 endanger the life of the other, ~~or shall offer such indignities to the person~~  
34 ~~of the other as shall render his or her condition intolerable;~~

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(5) Where either party shall have committed adultery subsequent  
36 to the marriage;

1           (6) Where husband and wife have lived separate and apart from  
2 each other for eighteen (18) continuous months, without cohabitation, the  
3 court shall grant an absolute decree of divorce at the suit of either party,  
4 whether the separation was the voluntary act of one party or by the mutual  
5 consent of both parties or due to the fault of either party or both parties;

6           (7)(A) In all cases where a husband and wife have lived separate  
7 and apart for three (3) consecutive years, without cohabitation, by reason of  
8 the incurable insanity of one of them, the court shall grant a decree of  
9 absolute divorce upon the petition of the sane spouse if the proof shows that  
10 the insane spouse has been committed to an institution for the care and  
11 treatment of the insane for three (3) or more years prior to the filing of the  
12 suit, been adjudged to be of unsound mind by a court of competent  
13 jurisdiction, and has not been discharged from such adjudication by such court  
14 and the proof of insanity is supported by the evidence of two (2) reputable  
15 physicians familiar with the mental condition of the spouse, one of whom shall  
16 be a regularly practicing physician in the community wherein such spouse  
17 resided and, where the insane spouse has been confined in an institution for  
18 the care and treatment of the insane, that the proof in the case is supported  
19 by the evidence of the superintendent or one of the physicians of the  
20 institution wherein the insane spouse has been confined;

21           (B) In all decrees granted under this subdivision (7), the  
22 court shall require the plaintiff to provide for the care and maintenance of  
23 the insane defendant so long as he or she may live. The trial court will  
24 retain jurisdiction of the parties and the cause, from term to term, for the  
25 purpose of making such further orders as equity may require to enforce the  
26 provisions of the decree requiring plaintiff to furnish funds for such care  
27 and maintenance;

28           (C) Service of process upon an insane spouse shall be had  
29 by service of process upon the duly appointed, qualified, and acting guardian  
30 of the insane spouse or upon a duly appointed guardian ad litem for the insane  
31 spouse, and where the insane spouse is confined in an institution for the care  
32 of the insane, upon the superintendent or physician in charge of the  
33 institution wherein the insane spouse is at the time confined. However, where  
34 the insane spouse is not confined in an institution, service of process upon  
35 the duly appointed, qualified, and acting guardian of the insane spouse, or  
36 duly appointed guardian ad litem and thereafter personal service or

1 constructive service on an insane defendant by publication of warning order  
2 for four (4) weeks shall be sufficient;

3 (8) Where either spouse legally obligated to support the other,  
4 and having the ability to provide the other with the common necessities of  
5 life, willfully fails to do so.”

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7 SECTION 2. All provisions of this act of a general and permanent nature  
8 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
9 Revision Commission shall incorporate the same in the Code.

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11 SECTION 3. If any provision of this act or the application thereof to  
12 any person or circumstance is held invalid, such invalidity shall not affect  
13 other provisions or applications of the act which can be given effect without  
14 the invalid provision or application, and to this end the provisions of this  
15 act are declared to be severable.

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17 SECTION 4. All laws and parts of laws in conflict with this act are  
18 hereby repealed.

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