

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005  
4

# A Bill

HOUSE BILL 2948

5 By: Representative J. Martin  
6  
7

## For An Act To Be Entitled

9 AN ACT TO REQUIRE A PLAINTIFF TO STATE IN HIS OR  
10 HER PETITION FOR DIVORCE WHETHER HE OR SHE IS  
11 SEEKING TO DISSOLVE A MARRIAGE OR A COVENANT  
12 MARRIAGE; AND FOR OTHER PURPOSES.  
13

## Subtitle

15 TO REQUIRE A PLAINTIFF TO STATE IN HIS  
16 OR HER PETITION FOR DIVORCE WHETHER HE  
17 OR SHE IS SEEKING TO DISSOLVE A MARRIAGE  
18 OR A COVENANT MARRIAGE.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. Arkansas Code § 9-12-301 is amended to read as follows:  
24 9-12-301. Grounds for divorce.

25 (a) A plaintiff who is seeking to dissolve and set aside a marriage  
26 shall state in his or her petition for divorce whether he or she is seeking  
27 to dissolve a marriage or a covenant marriage as authorized under the  
28 Covenant Marriage Act of 2001, § 9-11-801 et seq.

29 (b) The circuit court shall have power to dissolve and set aside a  
30 marriage contract, not only from bed and board, but from the bonds of  
31 matrimony, for the following causes:

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

34 (2) Where either party shall be convicted of a felony or other  
35 infamous crime;

36 (3) Where either party shall be addicted to habitual drunkenness



1 for one (1) year, shall be guilty of such cruel and barbarous treatment as to  
 2 endanger the life of the other, or shall offer such indignities to the person  
 3 of the other as shall render his or her condition intolerable;

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

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

11 (6)(A) In all cases where a husband and wife have lived separate  
 12 and apart for three (3) consecutive years without cohabitation by reason of  
 13 the incurable insanity of one of them, the court shall grant a decree of  
 14 absolute divorce upon the petition of the sane spouse if the proof shows that  
 15 the insane spouse has been committed to an institution for the care and  
 16 treatment of the insane for three (3) or more years prior to the filing of  
 17 the suit, been adjudged to be of unsound mind by a court of competent  
 18 jurisdiction, and has not been discharged from such adjudication by such  
 19 court and the proof of insanity is supported by the evidence of two (2)  
 20 reputable physicians familiar with the mental condition of the spouse, one of  
 21 whom shall be a regularly practicing physician in the community wherein such  
 22 spouse resided and, where the insane spouse has been confined in an  
 23 institution for the care and treatment of the insane, that the proof in the  
 24 case is supported by the evidence of the superintendent or one (1) of the  
 25 physicians of the institution wherein the insane spouse has been confined;

26 (B) In all decrees granted under this subdivision (6), the  
 27 court shall require the plaintiff to provide for the care and maintenance of  
 28 the insane defendant so long as he or she may live. The trial court will  
 29 retain jurisdiction of the parties and the cause from term to term for the  
 30 purpose of making such further orders as equity may require to enforce the  
 31 provisions of the decree requiring plaintiff to furnish funds for such care  
 32 and maintenance;

33 (C) Service of process upon an insane spouse shall be had  
 34 by service of process upon the duly appointed, qualified, and acting guardian  
 35 of the insane spouse or upon a duly appointed guardian ad litem for the  
 36 insane spouse, and where the insane spouse is confined in an institution for

1 the care of the insane, upon the superintendent or physician in charge of the  
2 institution wherein the insane spouse is at the time confined. However, where  
3 the insane spouse is not confined in an institution, service of process upon  
4 the duly appointed, qualified, and acting guardian of the insane spouse, or  
5 duly appointed guardian ad litem and thereafter personal service or  
6 constructive service on an insane defendant by publication of warning order  
7 for four (4) weeks shall be sufficient;

8 (7) Where either spouse legally obligated to support the other,  
9 and having the ability to provide the other with the common necessities of  
10 life, willfully fails to do so.

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12 SECTION 2. This act shall apply to all petitions for divorce filed on  
13 or after the effective date of this act.

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