

SENATE BILL NO. 126

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY SENATOR WILKEN

Introduced: 3/1/01

Referred: State Affairs, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing a right of action for a legal separation; and amending Rule 42(a),**
2 **Alaska Rules of Civil Procedure."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 25.24 is amended by adding new sections to read:

5 **Article 3A. Legal Separation.**

6 **Sec. 25.24.400. Complaint for legal separation.** A husband or a wife may
7 separately or jointly file a complaint in the superior court for a legal separation. A
8 legal separation may be granted no more than once to the same married couple.

9 **Sec. 25.24.410. Grounds for a legal separation.** A legal separation may be
10 granted by the court based on a finding that

11 (1) an incompatibility of temperament exists between the parties; and

12 (2) the continuation of the parties' status as married persons preserves
13 or protects significant legal, financial, social, or religious interests.

14 **Sec. 25.24.420. Residency required.** One of the parties to a complaint for

1 legal separation must be a resident of the state at the time the action is commenced.

2 **Sec. 25.24.430. Consolidation of actions.** If, at any time, a party to an action
3 for legal separation files an action for divorce or annulment, the court shall consolidate
4 the new action with the action for legal separation.

5 **Sec. 25.24.440. Applicability of other statutes.** The following statutes
6 relating to divorce actions shall be applied similarly to an action for legal separation:
7 AS 25.24.060, 25.24.140, 25.24.150, 25.24.152, 25.24.160, and 25.24.170.

8 **Sec. 25.24.450. Decree.** (a) If a court finds that the grounds specified under
9 AS 25.24.410 exist, the court shall enter a decree of legal separation.

10 (b) Unless otherwise provided in the decree, provisions for child custody and
11 visitation, child support, and spousal support included in a decree of legal separation
12 are final orders subject to modification only as provided in AS 25.20.110 and
13 AS 25.24.170.

14 (c) If the decree of legal separation includes provisions for division of
15 property and debts of the marriage, the decree must state whether the division is an
16 interim or final order. To the extent the division is not a final order, the court shall
17 determine the parties' respective rights to and responsibilities for property and
18 obligations not finally distributed and as to any property or debts accrued by either
19 party while the order is in effect.

20 **Sec. 25.24.460. Effect of separation.** A decree of legal separation does not
21 restore the parties to the status of unmarried persons. A decree of legal separation
22 modifies the parties' rights and responsibilities as married persons only to the extent
23 specified in the decree of separation.

24 * **Sec. 2.** AS 09.05.015(a) is amended to read:

25 (a) A court of this state having jurisdiction over the subject matter has
26 jurisdiction over a person served in an action according to the rules of civil procedure

27 (1) in an action, whether arising in or out of this state, against a
28 defendant who, when the action is commenced,

29 (A) is a natural person present in this state when served;

30 (B) is a natural person domiciled in this state;

31 (C) is a domestic corporation; or

1 (D) is engaged in substantial and not isolated activities in this
2 state, whether the activities are wholly interstate, intrastate, or otherwise;

3 (2) in an action that may be brought under statutes of this state that
4 specifically confer grounds for personal jurisdiction over the defendant;

5 (3) in an action claiming injury to person or property in or out of this
6 state arising out of an act or omission in this state by the defendant;

7 (4) in an action claiming injury to person or property in this state
8 arising out of an act or omission out of this state by the defendant, provided, in
9 addition, that at the time of the injury either

10 (A) solicitation or service activities were carried on in this state
11 by or on behalf of the defendant; or

12 (B) products, materials, or things processed, serviced, or
13 manufactured by the defendant were used or consumed in this state in the
14 ordinary course of trade;

15 (5) in an action that

16 (A) arises out of a promise, made anywhere to the plaintiff or
17 to some third party for the plaintiff's benefit, by the defendant to perform
18 services in this state or to pay for services to be performed in this state by the
19 plaintiff;

20 (B) arises out of services actually performed for the plaintiff by
21 the defendant in this state, or services actually performed for the defendant by
22 the plaintiff in this state if the performance in this state was authorized or
23 ratified by the defendant;

24 (C) arises out of a promise, made anywhere to the plaintiff or to
25 some third party for the plaintiff's benefit, by the defendant to deliver or
26 receive in this state or to ship from this state goods, documents of title, or other
27 things of value;

28 (D) relates to goods, documents of title, or other things of value
29 shipped from this state by the plaintiff to the defendant on the order or
30 direction of the defendant; or

31 (E) relates to goods, documents of title, or other things of value

1 actually received by the plaintiff in this state from the defendant without regard
2 to where delivery to the carrier occurred;

3 (6) in an action that arises out of

4 (A) a promise, made anywhere to the plaintiff or to some third
5 party for the plaintiff's benefit, by the defendant to create in either party an
6 interest in, or to protect, acquire, dispose of, use, rent, own, control, or possess
7 by either party real property situated in this state;

8 (B) a claim to recover a benefit derived by the defendant
9 through the use, ownership, control, or possession by the defendant of tangible
10 property situated in this state either at the time of the first use, ownership,
11 control, or possession or at the time the action is commenced; or

12 (C) a claim that the defendant return, restore, or account to the
13 plaintiff for an asset or thing of value that was in this state at the time the
14 defendant acquired possession or control over it;

15 (7) in an action to recover a deficiency judgment upon a mortgage note
16 or conditional sales contract or other security agreement executed by the defendant or
17 a predecessor of the defendant to whose obligations the defendant has succeeded and
18 the deficiency is claimed

19 (A) in an action in this state to foreclose upon real property
20 situated in this state;

21 (B) following sale of real property in this state by the plaintiff;
22 or

23 (C) following resale of tangible property in this state by the
24 plaintiff;

25 (8) in an action against a defendant who is or was an officer or director
26 of a domestic corporation where the action arises out of the defendant's conduct as
27 such officer or director or out of the activities of the corporation while the defendant
28 held office as a director or officer;

29 (9) in an action for the collection of taxes or assessments levied,
30 assessed, or otherwise imposed by a taxing authority after April 10, 1968;

31 (10) in an action that arises out of a promise made to the plaintiff or

1 some third party by the defendant to insure upon or against the happening of an event
2 if

3 (A) the person insured was a resident of this state when the
4 event out of which the cause of action is claimed to arise occurred;

5 (B) the event out of which the cause of action is claimed to
6 arise occurred in this state; or

7 (C) the promise to insure was made in the state;

8 (11) in an action against a personal representative to enforce a claim
9 against the deceased person represented if one or more of the grounds stated in (2) -
10 (10) of this subsection would have furnished a basis for jurisdiction over the deceased
11 if living, and it is immaterial under this paragraph whether the action was commenced
12 during the lifetime of the deceased;

13 (12) in an action for annulment, divorce, legal separation, or separate
14 maintenance when a personal claim is asserted against the nonresident party [,] if

15 (A) the parties resided in this state in a marital relationship for
16 not less than six consecutive months within the six years preceding the
17 commencement of the action;

18 (B) the party asserting the personal claim has continued to
19 reside in this state; and

20 (C) the nonresident party receives notice as required by law.

21 * **Sec. 3.** The uncoded law of the State of Alaska is amended by adding a new section to
22 read:

23 **INDIRECT COURT RULE CHANGE.** AS 25.24.430, enacted by sec. 1 of this Act,
24 amends Rule 42(a), Alaska Rules of Civil Procedure, by requiring consolidation of
25 subsequent divorce and annulment actions with legal separation actions filed by the same
26 parties.

27 * **Sec. 4.** The uncoded law of the State of Alaska is amended by adding a new section to
28 read:

29 **APPLICABILITY.** (a) This Act applies to complaints for legal separation that are
30 filed on or after the effective date of this Act.

31 (b) An order of legal separation granted by a court in the state before the effective

- 1 date of this Act
- 2 (1) is not subject to or rendered void by this Act; and
- 3 (2) remains enforceable between the parties regardless of whether the issuing
- 4 court was authorized to issue the decree.