

1 IN THE SENATE

BY THE HEALTH, WELFARE AND
EDUCATION COMMITTEE BY REQUEST

2 SENATE BILL NO. 539

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for an alternate procedure in actions
7 for divorce."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 09.55 is amended by adding new sections to read:

10 ARTICLE 3A. ALTERNATE PROCEDURE

11 IN ACTIONS FOR DIVORCE.

12 Sec. 09.55.231. RESIDENCE REQUIREMENTS. Subject to the residence
13 and domicile requirements of secs. 130, 140, 150, 160 and 170 of this
14 chapter, a nonadversary action for divorce on the grounds set out in
15 sec. 110(5)(C) of this chapter may be maintained under secs. 231 - 239
16 of this chapter.

17 Sec. 09.55.232. FAMILY COURT MASTER. (a) The presiding judge of
18 each judicial district, or the family court judge in a district where
19 a judge is so designated, may appoint a master to carry out the provi-
20 sions of secs. 231 - 239 of this chapter. However, nothing in this
21 section may be construed to prevent a superior court judge from exercis-
22 ing the powers and duties of the master under secs. 231 - 239 of this
23 chapter.

24 (b) The master shall conduct hearings, issue notices, and make
25 findings of fact, conclusions of law, and recommendations to the superior
26 court as required or authorized under secs. 231 - 239 of this chapter.
27 The master may provide for the appointment of counsel or otherwise
28 provide for the protection of minor children in the manner he considers
29 necessary.

1 Sec. 09.55.233. MARRIAGE COUNSELOR. If the services of a family
2 court marriage counselor are available, he shall, in all cases if there
3 are minor children of the marriage, offer to arrange a meeting between
4 both spouses to explore the advantages and disadvantages of a proposed
5 divorce. In no case is it obligatory that the parties avail themselves
6 of the services offered, nor are the recommendations of the counselor
7 binding upon the master, nor may the recommendations prevent the issuance
8 of the decree of divorce under secs. 231 - 239 of this chapter.

9 Sec. 09.55.234. APPLICABILITY OF PROCEDURES. The provisions of
10 secs. 231 - 239 of this chapter shall be applicable to a divorce action
11 over which the court has jurisdiction and in which

12 (1) the custody of minor children is not in issue or a
13 custody agreement under sec. 235(3)(C) of this chapter has been filed;

14 (2) the property issues, if any, are limited to the propriety
15 and amount of alimony and child support payments; and

16 (3) the property owned by either or both of the spouses
17 is limited to

18 (A) the homestead or dwelling of either or both of the
19 spouses;

20 (B) tools, books, or other property used in the trade
21 or business of one of the spouses;

22 (C) clothing and personal effects;

23 (D) household goods;

24 (E) automobiles for personal or business use; and

25 (F) other property not exceeding \$500 in value.

26 Sec. 09.55.235. COMMENCEMENT OF ACTION. An action for divorce
27 under secs. 231 - 239 of this chapter may be commenced by the payment
28 of the filing fee prescribed by the supreme court and by filing with
29 the superior court the documents prescribed by this section. The

1 documents in blank, unexecuted form shall be in a form prescribed by
2 the supreme court and made available to the public. The documents
3 which must be filed are the following:

4 (1) a statement signed under oath by both spouses to the
5 effect that satisfactory continuation of the marital relationship is
6 impossible due to an incompatibility of temperament between the spouses;

7 (2) a statement signed under oath by both spouses stating

8 (A) the names of each party;

9 (B) the date and place of marriage;

10 (C) the date upon which either or both spouses became
11 residents of Alaska;

12 (D) the name, date of birth, and current custodial
13 status of each minor child born of the marriage or currently in
14 the custody of either or both of the spouses;

15 (E) the description, value and ownership of all real
16 or personal property owned by either or both of the spouses;

17 (F) whether the wife desires the restoration of her
18 maiden name or her name before the marriage and, if so, the name;

19 (3) an agreement, signed under oath by each spouse, reciting
20 that it is the free and voluntary agreement of each spouse, which
21 specifies

22 (A) that the parties desire that the bonds of matrimony
23 be dissolved and an absolute decree of divorce entered;

24 (B) if desired, that the maiden or prior name of the
25 wife be restored;

26 (C) the spouse or third party who shall be awarded
27 custody of each minor child, and the rights of visitation, if any,
28 to be accorded other persons;

29 (D) the amount and terms of alimony or child support

1 payments to be made by one spouse to the other, or a statement
2 that agreement has not been reached on alimony or child support
3 payments; and

4 (E) the property to be awarded each spouse and any
5 payments in cash to be made by one spouse to the other, or a state-
6 ment that agreement has not been reached on a division of property.

7 Sec. 09.55.236. SCOPE OF HEARING. There shall be a hearing before
8 the family court master or superior court judge where applicable, in
9 all cases filed under this section, the scope of which shall be as
10 follows:

11 (1) if there are no minor children and there is agreement
12 as to all aspects of the case, the hearing shall be solely to determine
13 that the parties understand fully the nature and consequences of their
14 action, and whether the agreement of the parties is grossly unfair,
15 unjust, or inequitable;

16 (2) if there are minor children and there is agreement as
17 to all aspects of the case, the scope of the hearing shall be the
18 same as provided in (1) of this section, except that the court shall
19 take into account the best interests of the minor children and shall
20 review the agreement of the parties in light of the best interests of
21 the children;

22 (3) if there is a dispute as to the property division or
23 support provisions, the master or judge shall make a reasonable division
24 of the property or reasonable support provisions giving consideration
25 to the welfare of the minor children, if any, and to the needs and
26 wishes of the parties.

27 Sec. 09.55.237. ENTRY OF DECREE. (a) The master or judge shall
28 cause to be served upon each spouse and any other persons representing
29 the children in the proceeding, by registered mail, a copy of his findings

1 of fact, conclusions of law, and proposed decree. The proposed decree
2 shall incorporate the approved provisions of the agreement filed by
3 the spouses and any property or support provisions recommended by the
4 master or judge, and shall become final 60 days after service of the
5 proposed decree unless, before that time,

6 (1) the superior court judge determines that the provisions
7 of the decree are unfair, unjust, or inequitable, or fail to make
8 adequate provisions for the best interests of minor children;

9 (2) either spouse objects to a provision not previously
10 agreed upon;

11 (3) a representative of minor children appointed by the
12 court objects to a term of the decree; or

13 (4) either spouse withdraws his agreement to granting the
14 divorce or custody of minor children.

15 (b) Objections or withdrawals permitted by (a)(2), (3) and (4) of
16 this section may be made by mail directed to the court or master.

17 (c) Upon the occurrence of the condition specified in (a)(1) of
18 this section the court shall conduct a further hearing and make an
19 appropriate disposition.

20 (d) Upon occurrence of the conditions specified in (a)(2) and
21 (3) of this section, the court shall, in its discretion, issue an
22 order adopting the proposed decree, conduct a further hearing, or
23 dismiss the case.

24 (e) Upon the occurrence of the condition specified in (a)(4) of
25 this section, the court shall dismiss the case.

26 (f) Notwithstanding the other provisions of this section, the
27 court may direct that appropriate documents be executed, if necessary
28 to effectuate the decree, before the proposed decree becomes final.

29 Sec. 09.55.238. EFFECT AND MODIFICATION OF DECREE. (a) A decree

1 of divorce issued under secs. 231 - 239 of this chapter shall have the
2 same force and effect as a decree granted under secs. 70 - 230 of this
3 chapter.

4 (b) A decree of divorce may be modified any time in accordance
5 with the provisions of sec. 220 of this chapter.

6 Sec. 09.55.239. MISCELLANEOUS. (a) The filing of an application
7 for divorce under secs. 231 - 239 of this chapter shall not be a pre-
8 requisite to the commencing of action under secs. 70 - 230 of this
9 chapter.

10 (b) No party may be precluded from filing an action for divorce
11 under secs. 70 - 230 of this chapter upon dismissal of an application
12 filed under secs. 231 - 239 of this chapter.
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