

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 899

Introduced by Lathrop, 12.

Read first time January 09, 2012

Committee: Judiciary

A BILL

1 FOR AN ACT relating to husband and wife; to amend section 42-353,
2 Reissue Revised Statutes of Nebraska; to provide
3 procedures for entering a legal separation decree; to
4 provide a duty for the Revisor of Statutes; and to repeal
5 the original section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 42-353, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 42-353 The pleadings required by sections 42-347 to
4 42-381 shall be governed by the rules of pleading in civil actions
5 promulgated under section 25-801.01. The complaint shall include the
6 following:

7 (1) The name and address of the plaintiff and his or her
8 attorney, except that a plaintiff who is living in an undisclosed
9 location because of safety concerns is only required to disclose the
10 county and state of his or her residence and, in such case, shall
11 provide an alternative address for the mailing of notice;

12 (2) The name and address, if known, of the defendant;

13 (3) The date and place of marriage;

14 (4) The name and year of birth of each child whose
15 custody or welfare may be affected by the proceedings and whether (a)
16 a parenting plan as provided in the Parenting Act has been developed
17 and (b) child custody, parenting time, visitation, or other access or
18 child support is a contested issue;

19 (5) If the plaintiff is a party to any other pending
20 action for divorce, separation, or dissolution of marriage, a
21 statement as to where such action is pending;

22 (6) Reference to any existing restraining orders,
23 protection orders, or criminal no-contact orders regarding any party
24 to the proceedings;

25 (7) A statement of the relief sought by the plaintiff,

1 including adjustment of custody, property, and support rights; and

2 (8) An allegation that the marriage is irretrievably
3 broken if the complaint is for dissolution of marriage or an
4 allegation that the two persons who have been legally married shall
5 thereafter live separate and apart if the complaint is for a legal
6 separation.

7 Sec. 2. In a legal separation proceeding:

8 (1) If both of the parties state under oath or
9 affirmation that they shall thereafter live separate and apart, or
10 one of the parties so states and the other does not deny it, the
11 court, after hearing, shall make a finding whether the legal
12 separation should be granted and if so may enter a decree of legal
13 separation;

14 (2) If one of the parties has denied under oath or
15 affirmation that they will thereafter live separate and apart, the
16 court shall, after hearing, consider all relevant factors, including
17 the circumstances that gave rise to the filing of the complaint and
18 the prospect of reconciliation and shall make a finding whether the
19 legal separation should be granted and if so may enter a decree of
20 legal separation; or

21 (3) Sixty days or more after perfection of service of
22 process, the court may enter a decree of legal separation without a
23 hearing if:

24 (a) Both parties waive the requirement of the hearing and
25 the court has sufficient basis to make a finding that it has subject

1 matter jurisdiction over the legal separation proceeding and personal
2 jurisdiction over both parties; and

3 (b) Both parties have certified in writing that they
4 shall thereafter live separate and apart, both parties have certified
5 that they have made every reasonable effort to effect reconciliation,
6 all documents required by the court and by statute have been filed,
7 and the parties have entered into a written agreement, signed by both
8 parties under oath, resolving all issues presented by the pleadings
9 in their legal separation proceeding.

10 Sec. 3. The Revisor of Statutes shall assign section 2 of
11 this act within sections 42-347 to 42-381, and all references to such
12 sections shall be deemed to include section 2 of this act.

13 Sec. 4. Original section 42-353, Reissue Revised Statutes
14 of Nebraska, is repealed.