

1 SB319
2 116594-2
3 By Senator Erwin
4 RFD: Judiciary
5 First Read: 02-FEB-10

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8 SYNOPSIS: Under existing law, a court can enter a
9 final judgment of divorce 30 days from the date of
10 the filing of the summons and complaint.

11 This bill would require a waiting period of
12 365 days before a final judgment of divorce could
13 be entered if there are minor children resulting
14 from the marriage of the parties to the divorce.

15 This bill would require a waiting period of
16 180 days before a final judgment of divorce could
17 be entered if there are no minor children of the
18 marriage or if the court finds by clear and
19 convincing evidence that there is domestic violence
20 or child abuse.

21 This bill would require the party requesting
22 a divorce to submit a family plan regarding any
23 child born to the marriage.

24 This bill would provide for the rights of a
25 parent who does not have physical custody of a
26 child born to the marriage unless the parent has
27 been convicted of domestic violence or child abuse.

1 This bill would require a waiting period of
2 180 days before a final judgment of divorce could
3 be entered where there are no minor children
4 resulting from the marriage of the parties to the
5 divorce if the court finds that one or both of the
6 parties has committed domestic violence or child
7 abuse.

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9 A BILL
10 TO BE ENTITLED
11 AN ACT

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13 To amend Section 30-2-8.1, Code of Alabama 1975,
14 relating to divorce; to provide legislative findings; to
15 require a 365-day waiting period before a final judgment of
16 divorce could be entered if there are minor children resulting
17 from the marriage of the parties to the divorce; to require a
18 waiting period of 180 days before a final judgment of divorce
19 could be entered where there are no minor children resulting
20 from the marriage of the parties to the divorce if the court
21 finds that one or both of the parties has committed domestic
22 violence or child abuse; to require the party requesting a
23 divorce to submit a family plan regarding any child born to
24 the marriage; and to provide for the rights of the parent who
25 does not have physical custody of a child born to the marriage
26 unless the parent has been convicted of domestic violence or
27 child abuse.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. The Legislature finds each of the
3 following:

4 (1) Social science has shown that children of single
5 parent families are twice as likely to drop out of school,
6 three times as likely to become pregnant as a teenager, six
7 times more likely to be in poverty, and 12 times more likely
8 to be incarcerated.

9 (2) Alabama has one of the highest divorce rates in
10 the United States and the people that suffer the most from
11 divorce are the minor children. The purpose of this act is to
12 encourage reconciliation and less divorce.

13 Section 2. Section 30-2-8.1, Code of Alabama 1975,
14 is amended to read as follows:

15 "§30-2-8.1.

16 "~~(a) (1) A court shall not enter a final judgment of~~
17 ~~divorce until after the expiration of 30 days from the date of~~
18 ~~the filing of the summons and complaint. Except as provided in~~
19 ~~subdivision (2), if a court finds there are minor children of~~
20 ~~the marriage, the court may not enter a final judgment of~~
21 ~~divorce until after the expiration of 365 days from the date~~
22 ~~of the filing of the summons and complaint.~~

23 "(2) A court may enter a final judgment of divorce
24 after the expiration of 180 days from the date of the filing
25 of the summons and complaint if:

26 "a. There are no minor children of the marriage.

1 "b. There are minor children of the marriage but the
2 court finds by clear and convincing evidence there is domestic
3 violence or child abuse.

4 "(b) This section shall not restrict the power of
5 the court to enter any temporary orders necessary prior to the
6 expiration of the waiting period. The temporary orders may
7 include, but shall not be limited to, temporary orders on
8 custody, spousal or child support, visitation, exclusive
9 occupancy of the marital residence, or restraining the
10 parties. When minor children are the product of the marriage,
11 the court shall refer to subsections (c) and (d).

12 "(c) The court shall require a temporary family plan
13 to be submitted to the court by the parties requesting a
14 divorce where minor children are the product of the marriage.
15 A plan may be submitted by either party or a joint plan agreed
16 upon by both parties. The plan shall include, but not be
17 limited to, occupancy of the marital residence, financial
18 responsibility of marital residence, spousal support for the
19 minor children, child support, parenting time, transportation,
20 school and church to attend, holiday schedule, and medical and
21 dental insurance. The court shall give preference to any joint
22 agreed upon temporary family plan submitted by the parties.
23 The court may not deviate from a joint plan agreed to by the
24 parties unless by the clear and convincing evidence standard,
25 the plan places either party or the minor children in imminent
26 danger. If one party willfully refuses to submit a plan, the
27 plan submitted by the other party shall have preference. If

1 both parties willfully refuse to submit a plan, the court
2 shall enter a plan using the least restrictive means
3 available.

4 "(d) The following are the rights of a parent where
5 a child is not in the physical care of that parent unless that
6 parent has been convicted by a court of proper jurisdiction of
7 domestic violence or child abuse:

8 "(1) The right to unimpeded telephone conversations
9 with each child at least twice a week.

10 "(2) The right to send mail or email to each child,
11 which the other parent will not open or censor.

12 "(3) The right to receive notice and relevant
13 information as soon as practical but within 24 hours of any
14 event of hospitalization, major illness, or death of each
15 child.

16 "(4) The right to receive directly from the school
17 of each child, upon written request which includes a current
18 mailing address, copies of each report card, attendance of
19 each child, records, names of teachers, class schedules,
20 standardized test scores, and any other records customarily
21 made available to parents.

22 "(5) The right to receive, directly from each
23 child's physician and other health care providers, copies of
24 each child's medical records, provided that a written request
25 is made to the provider with a current mailing address and
26 payment for reasonable cost of duplicating and mailing
27 records.

1 "(6) The right to be notified as soon as practicable
2 but within 24 hours in advance of any extracurricular
3 activities in which each child is participating."

4 Section 3. All laws or parts of laws which conflict
5 with this act are repealed.

6 Section 4. This act shall become effective on the
7 first day of the third month following its passage and
8 approval by the Governor, or its otherwise becoming law.