STATE OF NEW YORK

7242--B

2023-2024 Regular Sessions

IN ASSEMBLY

May 15, 2023

Introduced by M. of A. LAVINE, BYRNES, GLICK, SIMON, BORES, DAVILA, LEVENBERG -- read once and referred to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Judiciary in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the domestic relations law, in relation to allowing for no fault separation

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions 5 and 6 of section 170 of the domestic relations law, subdivision 5 as amended by chapter 835 of the laws of 1970, subdivision 6 as amended by chapter 801 of the laws of 1971, are amended to read as follows:

(5) The husband and wife have lived apart pursuant to a decree or judgment of separation for a period of [~~one or more years~~] six months or more after the granting of such decree or judgment, and satisfactory proof has been submitted by the plaintiff that [~~he or she~~] such plaintiff has substantially performed all the terms and conditions of such decree or judgment.

(6) The husband and wife have lived separate and apart pursuant to a written agreement of separation, subscribed by the parties thereto and acknowledged or proved in the form required to entitle a deed to be recorded, for a period of [~~one or more years~~] six months or more after the execution of such agreement and satisfactory proof has been submitted by the plaintiff that [~~he or she~~] such plaintiff has substantially performed all the terms and conditions of such agreement. Such agreement shall be filed in the office of the clerk of the county wherein either party resides. In lieu of filing such agreement, either party to such

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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agreement may file a memorandum of such agreement, which memorandum shall be similarly subscribed and acknowledged or proved as was the agreement of separation and shall contain the following information: (a) the names and addresses of each of the parties, (b) the date of marriage of the parties, (c) the date of the agreement of separation and (d) the date of this subscription and acknowledgment or proof of such agreement of separation.

§ 2. Section 200 of the domestic relations law is amended by adding a new subdivision 6 to read as follows:

6. The relationship between the spouses has broken down irretrievably for a period of at least six months, provided that one party has so stated under oath. No action for separation shall be maintained under this subdivision unless and until the economic issues of the payment or waiver of spousal support, the payment of child support, the payment of counsel and experts' fees and expenses as well as the custody and visitation with the infant children of the marriage have been resolved by the parties, or determined by the court and incorporated into the action.

§ 3. This act shall take effect on the sixtieth day after it shall have become a law and shall apply to matrimonial actions commenced on or after such effective date.