

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 408**

Introduced by Fulton, 29; Bloomfield, 17.

Read first time January 13, 2011

Committee: Judiciary

A BILL

- 1 FOR AN ACT relating to divorce; to amend sections 42-360 and 42-361,
- 2 Reissue Revised Statutes of Nebraska; to change
- 3 provisions relating to reconciliation; and to repeal the
- 4 original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 42-360, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           42-360 No decree shall be entered under sections 42-347  
4 to 42-381 unless the court finds that every reasonable effort to  
5 effect reconciliation has been made. Proceedings filed pursuant to  
6 sections 42-347 to 42-381 shall be subject to transfer to a  
7 conciliation court pursuant to section 42-822 or 42-823, in counties  
8 where such a court has been established. In counties having no  
9 conciliation court, the court hearing proceedings under sections  
10 42-347 to 42-381 may refer the parties to qualified marriage  
11 counselors or family service agencies, or other persons or agencies  
12 determined by the court to be qualified to provide conciliation  
13 services, if the court finds that there appears to be some reasonable  
14 possibility of a reconciliation being effected. ~~In no case shall the~~  
15 ~~court order marriage counseling upon the request of only one of the~~  
16 ~~parties to the dissolution or his or her attorney. If both parties~~  
17 ~~agree to attend counseling but do not agree on an assignment of the~~  
18 ~~costs of such counseling, the court, after receiving an application~~  
19 ~~for such costs and upon a showing that the parties cannot agree on an~~  
20 ~~assignment of such costs, shall assign such costs in a temporary or~~  
21 ~~permanent order.~~

22           Sec. 2. Section 42-361, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           42-361 (1) If both of the parties state under oath or  
25 affirmation that the marriage is irretrievably broken and there are

1 no minor children of the marriage, or one of the parties so states  
2 and the other does not deny it and there are no minor children of the  
3 marriage, the court, after hearing, shall make a finding whether the  
4 marriage is irretrievably broken.

5 (2) If one of the parties has denied under oath or  
6 affirmation that the marriage is irretrievably broken or if there is  
7 a minor child of the marriage, the court shall: ~~consider all relevant~~  
8 ~~factors, including the circumstances that gave rise to the filing of~~  
9 ~~the complaint and the prospect of reconciliation, and shall make a~~  
10 ~~finding whether the marriage is irretrievably broken.~~

11 (a) Refer the parties to qualified marriage counselors or  
12 family service agencies, or other persons or agencies determined by  
13 the court to be qualified, to provide conciliation services;

14 (b) Continue the proceedings for a reasonable length of  
15 time, not to exceed six months, to enable parties themselves to  
16 effect reconciliation; or

17 (c) Take such other action as may be in the best  
18 interests of the parties and the minor child of the marriage.

19 Sec. 3. Original sections 42-360 and 42-361, Reissue  
20 Revised Statutes of Nebraska, are repealed.