

Effective 9/1/2024

81-4-405 Grounds for divorce.

- (1) A court may order the dissolution of a marriage contract between the petitioner and the respondent on the grounds of:
 - (a) impotency of the respondent at the time of marriage;
 - (b) adultery committed by the respondent subsequent to marriage;
 - (c) willful desertion of the petitioner by the respondent for more than one year;
 - (d) willful neglect of the respondent to provide for the petitioner the common necessities of life;
 - (e) habitual drunkenness of the respondent;
 - (f) conviction of the respondent for a felony;
 - (g) cruel treatment of the petitioner by the respondent to the extent of causing bodily injury or great mental distress to the petitioner;
 - (h) irreconcilable differences of the marriage;
 - (i) incurable insanity; or
 - (j) when the petitioner and respondent have lived separately under a decree of separate maintenance of any state for three consecutive years without cohabitation.
- (2) A decree of divorce granted under Subsection (1)(j) does not affect the liability of either party under any provision for separate maintenance previously granted.
- (3)
 - (a) A court may not order the dissolution of a marriage contract between the petitioner and the respondent on the grounds of insanity unless:
 - (i) the respondent has been adjudged insane by the appropriate authorities of this or another state prior to the commencement of the action; and
 - (ii) the court finds by the testimony of competent witnesses that the insanity of the respondent is incurable.
 - (b) The court shall appoint for the respondent a guardian ad litem who shall protect the interests of the respondent.
 - (c) A copy of the summons and petition shall be served on:
 - (i) the respondent in person or by publication, as provided by the laws of this state in other actions for divorce, or upon the respondent's guardian ad litem; and
 - (ii) the county attorney for the county where the action is prosecuted.
 - (d) The county attorney shall:
 - (i) investigate the merits of the case;
 - (ii) if the respondent resides out of this state, take depositions as necessary;
 - (iii) attend the proceedings; and
 - (iv) make a defense as is just to protect the rights of the respondent and the interests of the state.
 - (e) The petitioner or respondent may:
 - (i) if the respondent resides in this state, upon notice, have the respondent brought into the court at trial; or
 - (ii) have an examination of the respondent by two or more competent physicians to determine the mental condition of the respondent.
 - (f) For the purpose described in Subsection (3)(e), a party may have leave from the court to enter any asylum or institution where the respondent may be confined.
 - (g) The court shall apportion the costs of court in this action.

Renumbered and Amended by Chapter 366, 2024 General Session