
DIGEST

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HB 7 Engrossed

2023 Regular Session

Muscarello

Abstract: Provides that certain notice requirements for default judgments do not apply when the plaintiff intends to obtain a default judgment for divorce.

Present law (C.C.P. Art. 1702) provides for default judgments. Present law provides that the plaintiff shall provide notice of intent to obtain a default judgment to the defendant in the following circumstances:

- (1) If the defendant in the principal or incidental demand fails to file an answer or other pleadings within the prescribed time and the plaintiff establishes a prima facie case.
- (2) If a party who fails to answer has made an appearance of record in the case.
- (3) If an attorney for a party who fails to answer has contacted the plaintiff or plaintiff's attorney concerning the action after it has been filed.
- (4) In delictual actions, to an unrepresented defendant who has not made an appearance.

Present law provides for default judgments for demands for divorce pursuant to C.C. Art. 103(1) and (5).

Present law (C.C. Art. 103(1)) provides for divorce for spouses that have been living separate and apart continuously for the requisite period of time or more on the date the petition is filed.

Present law (C.C. Art. 103(5)) provides for divorce after a protective order or injunction was issued during the marriage against the other spouse to protect the spouse seeking the divorce or a child of one of the spouses from abuse.

Proposed law provides that the notice requirements in present law (C.C.P. 1702) shall not be required when the plaintiff intends to obtain a default judgment for divorce under C.C. Art. 103(1) or 103(5).

(Adds C.C.P. Art. 1702(F)(3))

