

NORTH CAROLINA GENERAL ASSEMBLY
1971 SESSION

CHAPTER 17
HOUSE BILL 44

AN ACT TO PROVIDE THAT SERVICE OF PROCESS BY REGISTERED MAIL ON AN OUT-OF-STATE DEFENDANT IN A DIVORCE ACTION SHALL CONSTITUTE PERSONAL SERVICE.

The General Assembly of North Carolina do enact:

Section 1. G.S. 50-10 is rewritten to read as follows:

"§ 50-10. Material facts found by jury; parties cannot testify to adultery; waiver of jury trial in certain actions. — The material facts in every complaint asking for a divorce shall be deemed to be denied by the defendant, whether the same shall be actually denied by pleading or not, and no judgment shall be given in favor of the plaintiff in any such complaint until such facts have been found by a jury, and on such trial neither the husband nor wife shall be a competent witness to prove the adultery of the other, nor shall the admissions of either party be received as evidence to prove such fact. Notwithstanding the above provisions, the right to have the facts determined by a jury shall be deemed to be waived in divorce actions based on a one year separation as set forth in G.S. 50-5(4) or 50-6, where defendant has been personally served with summons, whether within or without the State, or where the defendant has accepted service of summons, whether within or without the State, or when service has been made upon the defendant by registered mail as provided in the Rules of Civil Procedure, unless such defendant, or the plaintiff, files a demand for a jury trial with the clerk of the court in which the action is pending, as provided in the Rules of Civil Procedure.

In all divorce actions tried without a jury as provided in this section the presiding judge shall answer the issues and render judgment thereon."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of February, 1971.