

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 946

Short Title: Alienation of Affection.

(Public)

Sponsors: Representative Decker.

Referred to: Judiciary II.

April 8, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO CODIFY THE COMMON LAW CAUSE OF ACTION OF ALIENATION
3 OF SPOUSAL AFFECTION; AND TO CREATE CAUSES OF ACTION FOR
4 ALIENATION OF PARENTAL AND GRANDPARENTAL AFFECTION.

5 The General Assembly of North Carolina enacts:

6 Section 1. Chapter 50 of the General Statutes is amended by adding a new
7 Article to read:

8 **"ARTICLE 3.**

9 **"ALIENATION OF AFFECTION.**

10 **"§ 50-40. Alienation of spousal affection.**

11 (a) Each of the following elements are required for an alienation of spousal
12 affection cause of action:

13 (1) The existence of a marriage characterized by genuine love and
14 affection;

15 (2) The love and affection of one spouse for the other is alienated and
16 destroyed; and

17 (3) The wrongful and malicious conduct of the defendant is the controlling
18 cause of this alienation.

19 (b) A cause of action for alienation of spousal affection may be maintained only
20 by either spouse against a third party.

1 (c) Upon a finding of alienation of spousal affection by a preponderance of the
2 evidence, a court may order monetary damages.

3 **"§ 50-41. Alienation of parental affection.**

4 (a) Each of the following elements is required for an alienation of parental
5 affection cause of action:

6 (1) The existence of a relationship between a parent and a minor child
7 characterized by genuine love and affection;

8 (2) The love and affection of the minor child for the parent is alienated and
9 destroyed; and

10 (3) The wrongful and malicious conduct of the minor child's other parent is
11 the controlling cause of this alienation.

12 (b) A cause of action for alienation of parental affection may be maintained only
13 by one parent against the other parent of the child.

14 (c) Upon a finding of alienation of parental affection by a preponderance of the
15 evidence, a court may order monetary damages or may issue or modify an order for
16 visitation or custody of the minor child. No order regarding visitation or custody of a
17 minor child shall be made unless the court finds that it is in the best interests of the child.

18 **"§ 50-42. Alienation of grandparental affection.**

19 (a) Each of the following elements are required for an alienation of grandparental
20 affection cause of action:

21 (1) The natural love and affection of the minor child for the biological
22 grandparent is alienated and destroyed, or is not allowed to develop; and

23 (2) The wrongful and malicious conduct of one or both of the minor child's
24 parents is the controlling cause of this alienation.

25 (b) A cause of action for alienation of grandparental affection may be maintained
26 only by a grandparent against one or both of the parents of the child.

27 (c) Upon a finding of alienation of grandparental affection by a preponderance of
28 the evidence, a court may order monetary damages or may issue or modify an order for
29 visitation with the minor child. The court may order visitation with the minor child in
30 favor of the grandparents even if custody of the minor child is not in dispute. No order
31 regarding visitation with a minor child shall be made unless the court finds that it is in the
32 best interests of the child."

33 Section 2. This act becomes effective October 1, 1999, and applies to causes
34 of action arising on or after that date.