

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

SESSION LAW 2009-224  
HOUSE BILL 1091

AN ACT TO CLARIFY LAWS PERTAINING TO CIVIL ACTIONS ON BEHALF OF AN INCOMPETENT SPOUSE AS RELATED TO DIVORCE PROCEEDINGS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 50-22 reads as rewritten:

**"§ 50-22. Action on behalf of an incompetent.**

~~A general guardian for an incompetent spouse may commence, defend or maintain any action authorized by this Chapter; however, the court shall not enter a decree of absolute divorce in such an action filed by the guardian on behalf of the incompetent spouse. As an exception to G.S. 50-21, the court may order equitable distribution on behalf of an incompetent spouse without entering a decree of divorce after the parties have lived separate and apart for a period of one year. Provided, however, that the competent spouse may seek and obtain a divorce from the incompetent spouse upon showing basis for the same.~~ duly appointed attorney-in-fact who has the power to sue and defend civil actions on behalf of an incompetent spouse and who has been appointed pursuant to a durable power of attorney executed in accordance with Chapter 32A of the General Statutes, a guardian appointed in accordance with Chapter 35A of the General Statutes, or a guardian ad litem appointed in accordance with G.S. 1A-1, Rules 17 and 25(b), may commence, defend, maintain, arbitrate, mediate, or settle any action authorized by this Chapter on behalf of an incompetent spouse. However, only a competent spouse may commence an action for absolute divorce."

**SECTION 2.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23<sup>rd</sup> day of June, 2009.

s/ Walter H. Dalton  
President of the Senate

s/ Joe Hackney  
Speaker of the House of Representatives

s/ Beverly E. Perdue  
Governor

Approved 5:44 p.m. this 30<sup>th</sup> day of June, 2009

