

HOUSE BILL 789

By Brooks K

AN ACT to amend Tennessee Code Annotated, Title 20,
Chapter 5, relative to the survival of certain rights
of actions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 20-5-106, is amended by designating the following language as subsection (c) and by relettering present subsection (c) accordingly.

(c)

(1) Notwithstanding any other law to the contrary, the rights granted by this section are waived if the surviving spouse abandons a deceased spouse, as described in § 36-4-101(a)(13).

(2) If the surviving spouse willfully withdraws from the deceased spouse for a period of two (2) years or more immediately preceding the death of the spouse, there is created a rebuttable presumption that the surviving spouse abandoned the deceased spouse.

(3) The party alleging that the surviving spouse waived the rights granted by this section by reason of abandonment is required to serve the surviving spouse as provided by the rules of civil procedure, or constructively serve such spouse as otherwise provided by law, of any action at which such the person intends to raise such allegation.

SECTION 2. Tennessee Code Annotated, Section 20-5-107, is amended by adding the following new subsection (e):

(e)

(1) Notwithstanding any other law to the contrary, the rights granted by this section are waived if the surviving spouse abandons a deceased spouse, as described in § 36-4-101(a)(13).

(2) If the surviving spouse willfully withdraws from the deceased spouse for a period of two (2) years or more immediately preceding the death of the spouse, there is created a rebuttable presumption that the surviving spouse abandoned the deceased spouse.

(3) The party alleging that the surviving spouse waived the rights granted by this section by reason of abandonment is required to serve the surviving spouse as provided by the rules of civil procedure, or constructively serve such spouse as otherwise provided by law, of any action at which the person intends to raise such allegation.

SECTION 3. Tennessee Code Annotated, Section 20-5-110, is amended by adding the following new subsection (c):

(c)

(1) Notwithstanding any other law to the contrary, the rights granted by this section are waived if the surviving spouse abandons a deceased spouse, as described in § 36-4-1019 (a)(13).

(2) If the surviving spouse willfully withdraws from the deceased spouse for a period of two (2) years or more immediately preceding the death of the spouse, there is created a rebuttable presumption that the surviving spouse abandoned the deceased spouse.

(3) The party alleging that the surviving spouse waived the rights granted by this section by reason of abandonment is required to serve the surviving

spouse as provided by the rules of civil procedure, or constructively serve such spouse as otherwise provided by law, of any action at which the person intends to raise such allegation.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.