
By: Delegate Montague

Introduced and read first time: January 31, 1996

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Divorce - Grounds**

3 FOR the purpose of repealing provisions of law related to limited divorces and absolute
4 divorces; providing a sole ground of divorce based on the separation of the parties
5 for a certain period of time; shortening the time period before a person may apply
6 for a divorce if the grounds occurred outside the State; providing for the application
7 of this Act; and generally relating to grounds for divorce.

8 BY repealing and reenacting, with amendments,
9 Article - Family Law
10 Section 7-101
11 Annotated Code of Maryland
12 (1991 Replacement Volume and 1995 Supplement)

13 BY repealing
14 Article - Family Law
15 Section 7-102 and 7-103
16 Annotated Code of Maryland
17 (1991 Replacement Volume and 1995 Supplement)

18 BY adding to
19 Article - Family Law
20 Section 7-102
21 Annotated Code of Maryland
22 (1991 Replacement Volume and 1995 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article - Family Law**

26 7-101.

27 (a) If the grounds for the divorce occurred outside of this State, a party may not
28 apply for a divorce unless 1 of the parties has resided in this State for at least [1 year] 6
29 MONTHS before the application is filed.

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1 (b) A court may not enter a decree of divorce on the uncorroborated testimony of
2 the party who is seeking the divorce.

3 [7-102.

4 (a) The court may decree a limited divorce on the following grounds:

5 (1) cruelty of treatment of the complaining party or of a minor child of the
6 complaining party;

7 (2) excessively vicious conduct to the complaining party or to a minor child
8 of the complaining party;

9 (3) desertion; or

10 (4) voluntary separation, if:

11 (i) the parties are living separate and apart without cohabitation; and

12 (ii) there is no reasonable expectation of reconciliation.

13 (b) As a condition precedent to granting a decree of limited divorce, the court
14 may:

15 (1) require the parties to participate in good faith in the efforts to achieve
16 reconciliation that the court prescribes; and

17 (2) assess the costs of any efforts to achieve reconciliation that the court
18 prescribes.

19 (c) The court may decree a divorce under this section for a limited time or for an
20 indefinite time.

21 (d) The court that granted a decree of limited divorce may revoke the decree at
22 any time on the joint application of the parties.

23 (e) If an absolute divorce is prayed and the evidence is sufficient to entitle the
24 parties to a limited divorce, but not to an absolute divorce, the court may decree a limited
25 divorce.]

26 [7-103.

27 (a) The court may decree an absolute divorce on the following grounds:

28 (1) adultery;

29 (2) desertion, if:

30 (i) the desertion has continued for 12 months without interruption
31 before the filing of the application for divorce;

32 (ii) the desertion is deliberate and final; and

33 (iii) there is no reasonable expectation of reconciliation;

34 (3) voluntary separation, if:

3

1 (i) the parties voluntarily have lived separate and apart without
2 cohabitation for 12 months without interruption before the filing of the application for
3 divorce; and

4 (ii) there is no reasonable expectation of reconciliation;

5 (4) conviction of a felony or misdemeanor in any state or in any court of the
6 United States if before the filing of the application for divorce the defendant has:

7 (i) been sentenced to serve at least 3 years or an indeterminate
8 sentence in a penal institution; and

9 (ii) served 12 months of the sentence;

10 (5) 2-year separation, when the parties have lived separate and apart
11 without cohabitation for 2 years without interruption before the filing of the application
12 for divorce; or

13 (6) insanity if:

14 (i) the insane spouse has been confined in a mental institution,
15 hospital, or other similar institution for at least 3 years before the filing of the application
16 for divorce;

17 (ii) the court determines from the testimony of at least 2 physicians
18 who are competent in psychiatry that the insanity is incurable and there is no hope of
19 recovery; and

20 (iii) 1 of the parties has been a resident of this State for at least 2 years
21 before the filing of the application for divorce.

22 (b) Recrimination is not a bar to either party obtaining an absolute divorce on the
23 grounds set forth in subsection (a)(1) through (5) of this section, but is a factor to be
24 considered by the court in a case involving the ground of adultery.

25 (c) Res judicata with respect to another ground under this section is not a bar to
26 either party obtaining an absolute divorce on the ground of 2-year separation.

27 (d) Condonation is not an absolute bar to a decree of an absolute divorce on the
28 ground of adultery, but is a factor to be considered by the court in determining whether
29 the divorce should be decreed.

30 (e) (1) A court may decree an absolute divorce even if a party has obtained a
31 limited divorce.

32 (2) If a party obtained a limited divorce on the ground of desertion that at
33 the time of the decree did not meet the requirements of subsection (a)(2) of this section,
34 the party may obtain an absolute divorce on the ground of desertion when the desertion
35 meets the requirements of subsection (a)(2) of this section.]

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1 7-102.

2 A COURT MAY GRANT A DIVORCE IF THE PARTIES HAVE LIVED SEPARATE AND
3 APART WITHOUT COHABITATION FOR 6 MONTHS WITHOUT INTERRUPTION BEFORE
4 THE FILING OF THE COMPLAINT FOR DIVORCE.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to a
6 complaint for divorce filed on or after October 1, 1996.

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 1996.