

SENATE BILL 406

Unofficial Copy
D4
HB 42/98 - JUD

1999 Regular Session
9r1367
CF HB 72

By: **Senators Forehand and Ruben**
Introduced and read first time: February 5, 1999
Assigned to: Judicial Proceedings

Committee Report: Favorable
Senate action: Adopted
Read second time: March 10, 1999

CHAPTER _____

1 AN ACT concerning

2 **Family Law - Award of Expenses**

3 FOR the purpose of adding absolute divorce, limited divorce, and property disposition
4 in annulment or divorce to the types of proceedings in which a court may award
5 to either party an amount for the reasonable and necessary expense of
6 prosecuting or defending the proceeding; requiring the court to consider certain
7 factors before making an award; authorizing the court to award reimbursement
8 for certain expenses previously paid; providing for the payment of counsel fees
9 directly to certain persons; providing for the application of this Act; and
10 generally relating to the award of reasonable and necessary expenses in certain
11 proceedings.

12 BY adding to
13 Article - Family Law
14 Section 7-107 and 8-214
15 Annotated Code of Maryland
16 (1999 Replacement Volume)

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

19 **Article - Family Law**

20 7-107.

21 (A) IN THIS SECTION, "REASONABLE AND NECESSARY EXPENSE" INCLUDES:

22 (1) SUIT MONEY;

1 (2) COUNSEL FEES; AND

2 (3) COSTS.

3 (B) AT ANY POINT IN A PROCEEDING UNDER THIS TITLE, THE COURT MAY
4 ORDER EITHER PARTY TO PAY TO THE OTHER PARTY AN AMOUNT FOR THE
5 REASONABLE AND NECESSARY EXPENSE OF PROSECUTING OR DEFENDING THE
6 PROCEEDING.

7 (C) BEFORE ORDERING THE PAYMENT, THE COURT SHALL CONSIDER:

8 (1) THE FINANCIAL RESOURCES AND FINANCIAL NEEDS OF BOTH
9 PARTIES; AND

10 (2) WHETHER THERE WAS SUBSTANTIAL JUSTIFICATION FOR
11 PROSECUTING OR DEFENDING THE PROCEEDING.

12 (D) UPON A FINDING BY THE COURT THAT THERE WAS AN ABSENCE OF
13 SUBSTANTIAL JUSTIFICATION OF A PARTY FOR PROSECUTING OR DEFENDING THE
14 PROCEEDING, AND ABSENT A FINDING BY THE COURT OF GOOD CAUSE TO THE
15 CONTRARY, THE COURT SHALL AWARD TO THE OTHER PARTY THE REASONABLE AND
16 NECESSARY EXPENSE OF PROSECUTING OR DEFENDING THE PROCEEDING.

17 (E) THE COURT MAY AWARD REIMBURSEMENT FOR ANY REASONABLE AND
18 NECESSARY EXPENSE THAT HAS PREVIOUSLY BEEN PAID.

19 (F) AS TO ANY AMOUNT AWARDED FOR COUNSEL FEES, THE COURT MAY:

20 (1) ORDER THAT THE AMOUNT AWARDED BE PAID DIRECTLY TO THE
21 LAWYER; AND

22 (2) ENTER JUDGMENT IN FAVOR OF THE LAWYER.

23 8-214.

24 (A) IN THIS SECTION, "REASONABLE AND NECESSARY EXPENSE" INCLUDES:

25 (1) SUIT MONEY;

26 (2) COUNSEL FEES; AND

27 (3) COSTS.

28 (B) AT ANY POINT IN A PROCEEDING UNDER THIS SUBTITLE, THE COURT MAY
29 ORDER EITHER PARTY TO PAY TO THE OTHER PARTY AN AMOUNT FOR THE
30 REASONABLE AND NECESSARY EXPENSE OF PROSECUTING OR DEFENDING THE
31 PROCEEDING.

32 (C) BEFORE ORDERING THE PAYMENT, THE COURT SHALL CONSIDER:

1 (1) THE FINANCIAL RESOURCES AND FINANCIAL NEEDS OF BOTH
2 PARTIES; AND

3 (2) WHETHER THERE WAS SUBSTANTIAL JUSTIFICATION FOR
4 PROSECUTING OR DEFENDING THE PROCEEDING.

5 (D) UPON A FINDING BY THE COURT THAT THERE WAS AN ABSENCE OF
6 SUBSTANTIAL JUSTIFICATION OF A PARTY FOR PROSECUTING OR DEFENDING THE
7 PROCEEDING, AND ABSENT A FINDING BY THE COURT OF GOOD CAUSE TO THE
8 CONTRARY, THE COURT SHALL AWARD TO THE OTHER PARTY THE REASONABLE AND
9 NECESSARY EXPENSE OF PROSECUTING OR DEFENDING THE PROCEEDING.

10 (E) THE COURT MAY AWARD REIMBURSEMENT FOR ANY REASONABLE AND
11 NECESSARY EXPENSE THAT HAS PREVIOUSLY BEEN PAID.

12 (F) AS TO ANY AMOUNT AWARDED FOR COUNSEL FEES, THE COURT MAY:

13 (1) ORDER THAT THE AMOUNT AWARDED BE PAID DIRECTLY TO THE
14 LAWYER; AND

15 (2) ENTER JUDGMENT IN FAVOR OF THE LAWYER.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only
17 to cases filed on or after the effective date of this Act.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 1999.