

HOUSE BILL 165

D4

5lr1401

By: **Delegate Dumais**

Introduced and read first time: January 28, 2015

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Grounds for Limited Divorce**

3 FOR the purpose of altering a certain ground for limited divorce by repealing a requirement
4 that separation of the parties be voluntary and without a reasonable expectation of
5 reconciliation; repealing a certain condition precedent to granting a decree of limited
6 divorce; and generally relating to grounds for limited divorce.

7 BY repealing and reenacting, with amendments,
8 Article – Family Law
9 Section 7–102
10 Annotated Code of Maryland
11 (2012 Replacement Volume and 2014 Supplement)

12 BY repealing and reenacting, without amendments,
13 Article – Family Law
14 Section 7–103
15 Annotated Code of Maryland
16 (2012 Replacement Volume and 2014 Supplement)

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

Article – Family Law

19
20 7–102.

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

22 (1) cruelty of treatment of the complaining party or of a minor child of the
23 complaining party;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (3) desertion; or

4 (4) [voluntary] separation, if:

5 (i) the parties are living separate and apart without cohabitation[;
6 and

7 (ii) there is no reasonable expectation of reconciliation].

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

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

11 (2) assess the costs of any efforts to achieve reconciliation that the court
12 prescribes.]

13 [(c) (B) The court may decree a divorce under this section for a limited time or
14 for an indefinite time.

15 [(d) (C) The court that granted a decree of limited divorce may revoke the
16 decree at any time on the joint application of the parties.

17 [(e) (D) If an absolute divorce is prayed and the evidence is sufficient to entitle
18 the parties to a limited divorce, but not to an absolute divorce, the court may decree a
19 limited divorce.

20 7–103.

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

22 (1) adultery;

23 (2) desertion, if:

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

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

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

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

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

5 (ii) served 12 months of the sentence;

6 (4) 12-month separation, when the parties have lived separate and apart
7 without cohabitation for 12 months without interruption before the filing of the application
8 for divorce;

9 (5) insanity if:

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

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

16 (iii) 1 of the parties has been a resident of this State for at least 2
17 years before the filing of the application for divorce;

18 (6) cruelty of treatment toward the complaining party or a minor child of
19 the complaining party, if there is no reasonable expectation of reconciliation; or

20 (7) excessively vicious conduct toward the complaining party or a minor
21 child of the complaining party, if there is no reasonable expectation of reconciliation.

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 (7) 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 12-month 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 the
29 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, the

1 party may obtain an absolute divorce on the ground of desertion when the desertion meets
2 the requirements of subsection (a)(2) of this section.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2015.