

SENATE BILL 472

D4
SB 363/14 – JPR

5lr1194

By: **Senator Zirkin**

Introduced and read first time: February 6, 2015

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Grounds for Divorce – Mutual Consent**

3 FOR the purpose of authorizing a court to decree an absolute divorce on the grounds of
4 mutual consent if the parties have executed a written settlement agreement that
5 resolves certain contested issues between the parties; requiring the parties to jointly
6 file a certain complaint and include a certain affidavit with the complaint in order to
7 initiate proceedings for an absolute divorce on the grounds of mutual consent; and
8 generally relating to the grounds for an absolute divorce.

9 BY repealing and reenacting, with amendments,
10 Article – Family Law
11 Section 7–103
12 Annotated Code of Maryland
13 (2012 Replacement Volume and 2014 Supplement)

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

16 **Article – Family Law**

17 7–103.

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

19 (1) adultery;

20 (2) desertion, if:

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

7 (ii) served 12 months of the sentence;

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

11 (5) insanity if:

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

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

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

20 (6) cruelty of treatment toward the complaining party or a minor child of
21 the complaining party, if there is no reasonable expectation of reconciliation; **[or]**

22 (7) excessively vicious conduct toward the complaining party or a minor
23 child of the complaining party, if there is no reasonable expectation of reconciliation; **OR**

24 **(8) MUTUAL CONSENT, IF THE PARTIES HAVE EXECUTED A WRITTEN**
25 **SETTLEMENT AGREEMENT THAT RESOLVES ALL CONTESTED ISSUES BETWEEN THE**
26 **PARTIES, INCLUDING:**

27 **(I) ALIMONY;**

28 **(II) THE DISTRIBUTION OF PROPERTY; AND**

29 **(III) THE CARE, CUSTODY, ACCESS, AND SUPPORT OF MINOR OR**
30 **DEPENDENT CHILDREN.**

1 (b) Recrimination is not a bar to either party obtaining an absolute divorce on the
2 grounds set forth in subsection (a)(1) through (7) of this section, but is a factor to be
3 considered by the court in a case involving the ground of adultery.

4 (c) Res judicata with respect to another ground under this section is not a bar to
5 either party obtaining an absolute divorce on the ground of 12-month separation.

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

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

11 (2) If a party obtained a limited divorce on the ground of desertion that at
12 the time of the decree did not meet the requirements of subsection (a)(2) of this section, the
13 party may obtain an absolute divorce on the ground of desertion when the desertion meets
14 the requirements of subsection (a)(2) of this section.

15 **(F) TO INITIATE PROCEEDINGS FOR AN ABSOLUTE DIVORCE ON THE**
16 **GROUND OF MUTUAL CONSENT, THE PARTIES SHALL:**

17 **(1) JOINTLY FILE A COMPLAINT FOR ABSOLUTE DIVORCE; AND**

18 **(2) INCLUDE WITH THE COMPLAINT AN AFFIDAVIT, SIGNED BY BOTH**
19 **PARTIES, EVIDENCING THAT THE PARTIES:**

20 **(I) CONSENT TO THE DIVORCE; AND**

21 **(II) HAVE EXECUTED A WRITTEN SETTLEMENT AGREEMENT**
22 **THAT MEETS THE REQUIREMENTS OF SUBSECTION (A)(8) OF THIS SECTION.**

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