

# SENATE BILL 472

D4  
SB 363/14 – JPR

5lr1194

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By: **Senator Zirkin**

Introduced and read first time: February 6, 2015

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 18, 2015

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## CHAPTER \_\_\_\_\_

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 under~~  
8 certain circumstances; authorizing a court to merge or incorporate a certain  
9 settlement agreement into a certain divorce decree; authorizing a court to modify or  
10 enforce a certain settlement agreement consistent with certain provisions of law; and  
11 generally relating to the grounds for an absolute divorce.

12 BY repealing and reenacting, with 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:

19 **Article – Family Law**

20 7–103.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



- 1 (a) The court may decree an absolute divorce on the following grounds:
- 2 (1) adultery;
- 3 (2) desertion, if:
- 4 (i) the desertion has continued for 12 months without interruption  
5 before the filing of the application for divorce;
- 6 (ii) the desertion is deliberate and final; and
- 7 (iii) there is no reasonable expectation of reconciliation;
- 8 (3) conviction of a felony or misdemeanor in any state or in any court of the  
9 United States if before the filing of the application for divorce the defendant has:
- 10 (i) been sentenced to serve at least 3 years or an indeterminate  
11 sentence in a penal institution; and
- 12 (ii) served 12 months of the sentence;
- 13 (4) 12-month separation, when the parties have lived separate and apart  
14 without cohabitation for 12 months without interruption before the filing of the application  
15 for divorce;
- 16 (5) insanity if:
- 17 (i) the insane spouse has been confined in a mental institution,  
18 hospital, or other similar institution for at least 3 years before the filing of the application  
19 for divorce;
- 20 (ii) the court determines from the testimony of at least 2 physicians  
21 who are competent in psychiatry that the insanity is incurable and there is no hope of  
22 recovery; and
- 23 (iii) 1 of the parties has been a resident of this State for at least 2  
24 years before the filing of the application for divorce;
- 25 (6) cruelty of treatment toward the complaining party or a minor child of  
26 the complaining party, if there is no reasonable expectation of reconciliation; [or]
- 27 (7) excessively vicious conduct toward the complaining party or a minor  
28 child of the complaining party, if there is no reasonable expectation of reconciliation; **OR**
- 29 **(8) MUTUAL CONSENT, IF:**

1                    (I) THE PARTIES ~~HAVE EXECUTED~~ EXECUTE AND SUBMIT TO  
2 THE COURT A WRITTEN SETTLEMENT AGREEMENT THAT RESOLVES ALL ~~CONTESTED~~  
3 ~~ISSUES BETWEEN THE PARTIES, INCLUDING~~ ISSUES RELATING TO:

4                    ~~(H)~~ 1. ALIMONY;

5                    ~~(H)~~ 2. THE DISTRIBUTION OF PROPERTY, INCLUDING THE  
6 RELIEF PROVIDED IN §§ 8-205 AND 8-208 OF THIS ARTICLE; AND

7                    ~~(H)~~ 3. THE CARE, CUSTODY, ACCESS, AND SUPPORT OF  
8 MINOR OR DEPENDENT CHILDREN;

9                    (II) IF THE SETTLEMENT AGREEMENT PROVIDES FOR THE  
10 PAYMENT OF CHILD SUPPORT, THE PARTIES ATTACH TO THE SETTLEMENT  
11 AGREEMENT A COMPLETED CHILD SUPPORT GUIDELINES WORKSHEET;

12                    (III) NEITHER PARTY FILES A PLEADING TO SET ASIDE THE  
13 SETTLEMENT AGREEMENT PRIOR TO THE DIVORCE HEARING REQUIRED UNDER THE  
14 MARYLAND RULES; AND

15                    (IV) AFTER REVIEWING THE SETTLEMENT AGREEMENT, THE  
16 COURT IS SATISFIED THAT ANY TERMS OF THE AGREEMENT RELATING TO MINOR OR  
17 DEPENDENT CHILDREN ARE IN THE BEST INTERESTS OF THOSE CHILDREN.

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

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

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

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

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

32                    ~~(F) TO INITIATE PROCEEDINGS FOR AN ABSOLUTE DIVORCE ON THE~~  
33 ~~GROUND OF MUTUAL CONSENT, THE PARTIES SHALL:~~

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

2           ~~(2) INCLUDE WITH THE COMPLAINT AN AFFIDAVIT, SIGNED BY BOTH~~  
3 ~~PARTIES, EVIDENCING THAT THE PARTIES:~~

4           ~~(I) CONSENT TO THE DIVORCE; AND~~

5           ~~(H) HAVE EXECUTED A WRITTEN SETTLEMENT AGREEMENT~~  
6 ~~THAT MEETS THE REQUIREMENTS OF SUBSECTION (A)(8) OF THIS SECTION.~~

7           (F) IF A COURT DECREES AN ABSOLUTE DIVORCE ON THE GROUNDS OF  
8 MUTUAL CONSENT UNDER SUBSECTION (A)(8) OF THIS SECTION, THE COURT MAY:

9           (1) MERGE OR INCORPORATE THE SETTLEMENT AGREEMENT INTO  
10 THE DIVORCE DECREE; AND

11           (2) MODIFY OR ENFORCE THE SETTLEMENT AGREEMENT  
12 CONSISTENT WITH TITLE 8, SUBTITLE 1 OF THIS ARTICLE.

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

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.