

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 1185
Judiciary

(Delegate Dumais)

Judicial Proceedings

Family Law - Application for Divorce - Residency Requirement

This bill reduces, from one year to six months, the amount of time that a party to an application for divorce in specified circumstances must reside in the State before the application may be filed.

Fiscal Summary

State Effect: The bill's changes do not materially affect the workload of the Judiciary.

Local Effect: The bill's changes do not materially affect the workload of the circuit courts.

Small Business Effect: None.

Analysis

Current Law: If the grounds for divorce occurred outside of the State, a party may not apply for a divorce unless one of the parties has resided in the State for at least one year before the application is filed.

A court may grant a limited divorce on the following grounds:

- cruelty of treatment of the complaining party or a minor child of the complaining party;
- excessively vicious conduct to the complaining party or to a minor child of the complaining party;
- desertion; or

- voluntary separation, if the parties are living separate and apart without cohabitation and there is no reasonable expectation of reconciliation.

Before granting a limited divorce, the court may require the parties to participate in good faith, in efforts to achieve reconciliation as prescribed by the court. A limited divorce may be granted by the court for a limited or an indefinite time. A court that grants a limited divorce may revoke it at any time on the joint application of the parties. If the parties request an absolute divorce and the evidence is sufficient to entitle them to only a limited divorce, the court may grant a limited divorce.

A limited divorce does not sever the marriage, but does grant the complaining party the right to live separate and apart from the other spouse. A limited divorce can also address issues of custody, visitation, child support, alimony, and use and possession of a family home.

A court may grant an absolute divorce on the following grounds:

- adultery;
- desertion, if the desertion is deliberate and final, has continued for 12 months without interruption, and there is no reasonable expectation of reconciliation;
- conviction of a felony or misdemeanor in any state or federal court, if the defendant has been sentenced to serve at least three years, or an indeterminate sentence, and has served 12 months of the sentence;
- 12-month separation, when the parties have lived separate and apart without cohabitation for 12 months without interruption before the filing of the divorce application;
- insanity, as specified; or
- cruelty of treatment or excessively vicious conduct toward the complaining party or a minor child of the complaining party, if there is no reasonable expectation of reconciliation.

A court may not enter a decree of divorce on the uncorroborated testimony of the person who is seeking the divorce.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

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mar/kdm

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