

# SENATE BILL 358

D4

6lr1300

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By: **Senator Zirkin**

Introduced and read first time: January 28, 2016

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Divorce on Grounds of Mutual Consent – Parties With Minor**  
3 **Children**

4 FOR the purpose of authorizing a court to decree an absolute divorce on the grounds of  
5 mutual consent if the parties have minor children, under certain circumstances;  
6 requiring a certain settlement agreement to provide for the care, custody, access, and  
7 support of minor or dependent children; requiring certain parties to attach a  
8 completed child support guidelines worksheet to a certain settlement agreement;  
9 providing that a court may decree an absolute divorce on the grounds of mutual  
10 consent only if, after reviewing a certain settlement agreement, the court is satisfied  
11 that any terms of the agreement relating to minor or dependent children are in the  
12 best interests of those children; and generally relating to the grounds for an absolute  
13 divorce.

14 BY repealing and reenacting, with amendments,  
15 Article – Family Law  
16 Section 7–103(a)  
17 Annotated Code of Maryland  
18 (2012 Replacement Volume and 2015 Supplement)

19 BY repealing and reenacting, without amendments,  
20 Article – Family Law  
21 Section 7–103(f)  
22 Annotated Code of Maryland  
23 (2012 Replacement Volume and 2015 Supplement)

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

26 **Article – Family Law**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 7–103.

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

3 (1) adultery;

4 (2) desertion, if:

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

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

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

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

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

13 (ii) served 12 months of the sentence;

14 (4) 12–month separation, when the parties have lived separate and apart  
15 without cohabitation for 12 months without interruption before the filing of the application  
16 for divorce;

17 (5) insanity if:

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

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

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

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

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

30 (8) mutual consent, if:

1 (i) [the parties do not have any minor children in common;

2 (ii)] the parties execute and submit to the court a written settlement  
3 agreement signed by both parties that resolves all issues relating to:

4 1. alimony; [and]

5 2. the distribution of property, including the relief provided  
6 in §§ 8–205 and 8–208 of this article; AND

7 **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 settlement  
13 agreement prior to the divorce hearing required under the Maryland Rules; [and]

14 (iv) both parties appear before the court at the absolute divorce  
15 hearing; AND

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

19 (f) If a court decrees an absolute divorce on the grounds of mutual consent under  
20 subsection (a)(8) of this section, the court may:

21 (1) merge or incorporate the settlement agreement into the divorce decree;  
22 and

23 (2) modify or enforce the settlement agreement consistent with Title 8,  
24 Subtitle 1 of this article.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 October 1, 2016.