

Department of Legislative Services  
Maryland General Assembly  
2016 Session

FISCAL AND POLICY NOTE  
Enrolled - Revised

Senate Bill 359

(Senators Zirkin and Norman)

Judicial Proceedings

Judiciary

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Family Law - Divorce - Corroboration of Testimony

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This bill repeals a provision that prohibits a court from entering a decree of divorce on the uncorroborated testimony of the party seeking the divorce. It also repeals a provision establishing that a separation agreement meeting specified requirements is full corroboration for purposes of an absolute divorce on the ground of voluntary separation.

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Fiscal Summary

**State Effect:** The bill does not materially impact the workload of the Judiciary.

**Local Effect:** The bill does not materially impact the workload of the circuit courts.

**Small Business Effect:** None.

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Analysis

**Current Law:** 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
- separation, if the parties are living separate and apart without cohabitation.

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.

### *Absolute Divorce*

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 grant an absolute divorce on the ground of mutual consent if:

- the parties do not have any minor children in common;
- the parties execute and submit to the court a written settlement agreement signed by both parties that resolves all issues relating to (1) alimony and (2) the distribution of property, including a transfer of ownership of an interest in marital property, monetary awards, and/or an award of possession and use of the family home and family use personal property;
- neither party files a pleading to set aside the settlement agreement prior to the divorce hearing required under the Maryland Rules; and
- both parties appear before the court at the absolute divorce hearing.

If the court decrees an absolute divorce on the ground of mutual consent, the court may merge or incorporate the settlement agreement into the divorce decree and modify or enforce the settlement agreement as authorized by statutory provisions.

A court may not enter a decree of divorce on the uncorroborated testimony of the person who is seeking the divorce. In a suit for absolute divorce on the ground of voluntary

separation, a separation agreement is full corroboration of the plaintiff's testimony that the separation was voluntary if the agreement (1) states that the spouses voluntarily agreed to separate and (2) is executed under oath before the application for divorce is filed.

#### *Agreements between Spouses*

Spouses may make a valid and enforceable deed, agreement, or settlement that relates to alimony, support, property rights, or personal rights. The court may modify and enforce provisions within the deed, agreement, or settlement, as specified.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** Although not designated as a cross file, HB 274 (Delegate Dumais – Judiciary) is identical.

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

**Fiscal Note History:** First Reader - February 16, 2016  
kb/kdm Revised - Senate Third Reader - March 14, 2016  
Revised - Enrolled Bill - May 13, 2016

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