

HOUSE BILL 1368

D4

8lr2299

By: **Delegates McMillan and Dumais**

Introduced and read first time: February 9, 2018

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 13, 2018

CHAPTER _____

1 AN ACT concerning

2 **Grounds for Divorce – 12–Month Separation – Oral Amendment to Application**
3 **for Divorce**

4 FOR the purpose of establishing that the “filing of the application for divorce”, for purposes
5 of a provision of law authorizing a court to decree an absolute divorce on the grounds
6 of a 12–month separation when the parties have met certain conditions before the
7 filing of the application for divorce, includes an oral amendment made by a party
8 with the consent of the other party at a hearing on the merits in open court to a
9 previously filed application for limited or absolute divorce; and generally relating to
10 divorce.

11 BY repealing and reenacting, with amendments,
12 Article – Family Law
13 Section 7–103
14 Annotated Code of Maryland
15 (2012 Replacement Volume and 2017 Supplement)

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

18 **Article – Family Law**

19 7–103.

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

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 (1) adultery;

2 (2) desertion, if:

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

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

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

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

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

11 (ii) served 12 months of the sentence;

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

15 (5) insanity if:

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

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

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

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

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

28 (8) mutual consent, if:

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

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

3 1. alimony; and

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

6 (iii) neither party files a pleading to set aside the settlement
7 agreement prior to the divorce hearing required under the Maryland Rules; and

8 (iv) both parties appear before the court at the absolute divorce
9 hearing.

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

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

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

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

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

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

26 (1) merge or incorporate the settlement agreement into the divorce decree;
27 and

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

30 **(G) FOR PURPOSES OF SUBSECTION (A)(4) OF THIS SECTION, THE “FILING**
31 **OF THE APPLICATION FOR DIVORCE” INCLUDES AN ORAL AMENDMENT MADE BY A**
32 **PARTY WITH THE CONSENT OF THE OTHER PARTY AT A HEARING ON THE MERITS IN**
33 **OPEN COURT TO A PREVIOUSLY FILED APPLICATION FOR LIMITED OR ABSOLUTE**
34 **DIVORCE.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2018.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.