

# HOUSE BILL 1368

D4

8lr2299

---

By: **Delegates McMillan and Dumais**

Introduced and read first time: February 9, 2018

Assigned to: Judiciary

---

## A BILL ENTITLED

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 in open court to a previously filed application for  
9 limited or absolute divorce; and generally relating to divorce.

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

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

### Article – Family Law

18 7–103.

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

20 (1) adultery;

21 (2) desertion, if:

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

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (ii) the desertion is deliberate and final; and
- 2 (iii) there is no reasonable expectation of reconciliation;
- 3 (3) conviction of a felony or misdemeanor in any state or in any court of the  
4 United States if before the filing of the application for divorce the defendant has:
- 5 (i) been sentenced to serve at least 3 years or an indeterminate  
6 sentence in a penal institution; and
- 7 (ii) served 12 months of the sentence;
- 8 (4) 12-month separation, when the parties have lived separate and apart  
9 without cohabitation for 12 months without interruption before the filing of the application  
10 for divorce;
- 11 (5) insanity if:
- 12 (i) the insane spouse has been confined in a mental institution,  
13 hospital, or other similar institution for at least 3 years before the filing of the application  
14 for divorce;
- 15 (ii) the court determines from the testimony of at least 2 physicians  
16 who are competent in psychiatry that the insanity is incurable and there is no hope of  
17 recovery; and
- 18 (iii) 1 of the parties has been a resident of this State for at least 2  
19 years before the filing of the application for divorce;
- 20 (6) cruelty of treatment toward the complaining party or a minor child of  
21 the complaining party, if there is no reasonable expectation of reconciliation;
- 22 (7) excessively vicious conduct toward the complaining party or a minor  
23 child of the complaining party, if there is no reasonable expectation of reconciliation; or
- 24 (8) mutual consent, if:
- 25 (i) the parties do not have any minor children in common;
- 26 (ii) the parties execute and submit to the court a written settlement  
27 agreement signed by both parties that resolves all issues relating to:
- 28 1. alimony; and
- 29 2. the distribution of property, including the relief provided  
30 in §§ 8–205 and 8–208 of this article;

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

3 (iv) both parties appear before the court at the absolute divorce  
4 hearing.

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

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

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

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

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

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 **(G) FOR PURPOSES OF SUBSECTION (A)(4) OF THIS SECTION, THE “FILING**  
26 **OF THE APPLICATION FOR DIVORCE” INCLUDES AN ORAL AMENDMENT MADE BY A**  
27 **PARTY WITH THE CONSENT OF THE OTHER PARTY IN OPEN COURT TO A PREVIOUSLY**  
28 **FILED APPLICATION FOR LIMITED OR ABSOLUTE DIVORCE.**

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