

# HOUSE BILL 80

D4  
HB 402/19 – JUD

0lr0607

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By: **Delegate Atterbeary**

Introduced and read first time: January 10, 2020

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Grounds for Divorce**

3 FOR the purpose of authorizing a court to grant an absolute divorce on the ground of  
4 separation of affection if the parties are not engaging in sexual relations under  
5 certain circumstances; and generally relating to the grounds for an absolute divorce.

6 BY repealing and reenacting, with amendments,  
7 Article – Family Law  
8 Section 7–103  
9 Annotated Code of Maryland  
10 (2019 Replacement Volume)

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

13 **Article – Family Law**

14 7–103.

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

16 (1) adultery;

17 (2) desertion, if:

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

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

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

5 (ii) served 12 months of the sentence;

6 (4) [12-month] separation **OF AFFECTION**, when the parties have [lived  
7 separate and apart without cohabitation] **NOT ENGAGED IN SEXUAL RELATIONS** for 12  
8 months without interruption before the filing of the application for divorce;

9 (5) insanity if:

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

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

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

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

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

22 (8) mutual consent, if:

23 (i) the parties execute and submit to the court a written settlement  
24 agreement signed by both parties that resolves all issues relating to:

25 1. alimony;

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

28 3. the care, custody, access, and support of minor or  
29 dependent children;

30 (ii) the parties attach to the settlement agreement a completed child  
31 support guidelines worksheet if the settlement agreement provides for the payment of child

1 support;

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

4 (iv) after reviewing the settlement agreement, the court is satisfied  
5 that any terms of the agreement relating to minor or dependent children are in the best  
6 interests of those children.

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

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

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

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

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

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

23 (1) merge or incorporate the settlement agreement into the divorce decree;  
24 and

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

27 (g) For purposes of subsection (a)(4) of this section, the “filing of the application  
28 for divorce” includes an oral amendment made by a party with the consent of the other  
29 party at a hearing on the merits in open court to a previously filed application for limited  
30 or absolute divorce.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 October 1, 2020.