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**By: Delegates Grosfeld, Conroy, Cummings, Valderrama, Howard, Hixson, Kopp, Heller, R. Baker, Pendergrass, Hecht, Workman, Petzold, Franchot, Cryor, Frush, Goldwater, Pitkin, Menes, Parker, Snodgrass, Turner, Hutchins, Hubbard, Shriver, Ciliberti, Mossburg, McIntosh, Brinkley, Hurson, Jacobs, Genn, Dypski, and Marriott**

Introduced and read first time: January 25, 1996

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Grounds for Absolute Divorce - Constructive Desertion**

3 FOR the purpose of altering and codifying a certain ground for absolute divorce; and  
4 generally relating to the grounds for absolute divorce.

5 BY repealing and reenacting, with amendments,  
6 Article - Family Law  
7 Section 7-103  
8 Annotated Code of Maryland  
9 (1991 Replacement Volume and 1995 Supplement)

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

12 **Article - Family Law**

13 7-103.

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

15 (1) adultery;

16 (2) CONSTRUCTIVE DESERTION, IF:

17 (I) A PARTY HAS ENGAGED IN CONDUCT THAT WOULD MAKE  
18 CONTINUANCE OF THE MARITAL RELATIONSHIP INCONSISTENT WITH MAINTAINING  
19 THE HEALTH, SELF-RESPECT, AND REASONABLE COMFORT OF THE OTHER PARTY;  
20 AND

21 (II) THERE IS A PATTERN OF PERSISTENT CONDUCT THAT IS  
22 DETRIMENTAL TO THE SAFETY OR HEALTH OF THE COMPLAINING PARTY OR SO  
23 DEMEANING TO SELF-RESPECT AS TO BE INTOLERABLE;

24 [(2)] (3) desertion, if:

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

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

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

5 [(3)] (4) voluntary separation, if:

6 (i) the parties voluntarily have lived separate and apart without  
7 cohabitation for 12 months without interruption before the filing of the application for  
8 divorce; and

9 (ii) there is no reasonable expectation of reconciliation;

10 [(4)] (5) conviction of a felony or misdemeanor in any state or in any court  
11 of the United States if before the filing of the application for divorce the defendant has:

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

14 (ii) served 12 months of the sentence;

15 [(5)] (6) 2-year separation, when the parties have lived separate and apart  
16 without cohabitation for 2 years without interruption before the filing of the application  
17 for divorce; or

18 [(6)] (7) insanity if:

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

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

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

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

30 (c) Res judicata with respect to another ground under this section is not a bar to  
31 either party obtaining an absolute divorce on the ground of 2-year separation.

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

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

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1                   (2) If a party obtained a limited divorce on the ground of desertion that at  
2 the time of the decree did not meet the requirements of subsection [(a)(2)] (A)(3) of this  
3 section, the party may obtain an absolute divorce on the ground of desertion when the  
4 desertion meets the requirements of subsection [(a)(2)] (A)(3) of this section.

5                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 1996.