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**By: Senator Hoffman**

Introduced and read first time: January 31, 1997

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Divorce and Annulment - Removal of Barriers to Remarriage**

3 FOR the purpose of requiring a party to a marriage that was performed by a certain  
4 official who files an application for an absolute divorce or annulment to include  
5 certain statements in the application for divorce or annulment that allege that the  
6 applicant has taken all steps solely within the applicant's power to remove all  
7 barriers to remarriage by the other party to the marriage; prohibiting a court, when  
8 considering an application for an absolute divorce or annulment filed by a party to  
9 a marriage under the provisions of this Act, from issuing a decree of divorce or  
10 annulment unless certain statements are filed; defining a term; providing a penalty  
11 under certain circumstances; providing for the scope, application, and construction  
12 of this Act; and generally relating to absolute divorce and annulment and the  
13 removal of barriers to remarriage.

14 BY adding to

15 Article - Family Law  
16 Section 7-104.1  
17 Annotated Code of Maryland  
18 (1991 Replacement Volume and 1996 Supplement)

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

21 **Article - Family Law**

22 7-104.1.

23 (A) (1) (I) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
24 MEANINGS INDICATED.

25 (II) "BARRIER TO REMARRIAGE" MEANS ANY RELIGIOUS OR  
26 CONSCIENTIOUS RESTRAINT OR INHIBITION THAT IS IMPOSED ON A PARTY TO A  
27 MARRIAGE, UNDER THE PRINCIPLES HELD BY THE OFFICIAL OF THE RELIGIOUS  
28 ORDER OR BODY WHO PERFORMED THE MARRIAGE CEREMONY, BECAUSE OF THE  
29 COMMISSION OR WITHHOLDING OF ANY VOLUNTARY ACT BY THE OTHER PARTY TO  
30 THE MARRIAGE.

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1 (III) "BARRIER TO REMARRIAGE" DOES NOT INCLUDE ANY  
2 SITUATION IN WHICH:

3 1. A RESTRAINT OR INHIBITION AGAINST REMARRIAGE  
4 CANNOT BE REMOVED BY THE OTHER PARTY'S VOLUNTARY ACT; OR

5 2. THE PARTY IS REQUIRED TO INCUR EXPENSES IN  
6 CONNECTION WITH THE REMOVAL OF THE RESTRAINT OR INHIBITION TO  
7 REMARRIAGE AND THE OTHER PARTY REFUSES TO PROVIDE REASONABLE  
8 REIMBURSEMENT FOR THOSE EXPENSES.

9 (2) THE PHRASE "ALL STEPS SOLELY WITHIN THE PARTY'S POWER" IN  
10 THE DEFINITION OF "BARRIER TO REMARRIAGE" MAY NOT BE CONSTRUED TO  
11 INCLUDE THE FILING OF AN APPLICATION TO A MARRIAGE TRIBUNAL OR OTHER  
12 SIMILAR ORGANIZATION OR AGENCY OF A RELIGIOUS ORDER OR BODY THAT HAS  
13 THE AUTHORITY TO ANNUL OR DISSOLVE A MARRIAGE UNDER THE RULES AND  
14 CUSTOMS OF THE RELIGIOUS ORDER OR BODY.

15 (B) THIS SECTION APPLIES ONLY TO AN APPLICATION FOR AN ABSOLUTE  
16 DIVORCE OR ANNULMENT WITH RESPECT TO A MARRIAGE THAT WAS PERFORMED  
17 BY AN OFFICIAL OF A RELIGIOUS ORDER OR BODY AUTHORIZED BY THE RULES  
18 AND CUSTOMS OF THAT ORDER OR BODY TO PERFORM A MARRIAGE CEREMONY.

19 (C) (1) A PARTY TO A MARRIAGE WHO FILES AN APPLICATION FOR AN  
20 ABSOLUTE DIVORCE OR ANNULMENT SHALL STATE IN THE APPLICATION THAT:

21 (I) TO THE BEST OF THE APPLICANT'S KNOWLEDGE, THE  
22 APPLICANT HAS TAKEN, OR WILL TAKE PRIOR TO THE ENTRY OF A DECREE FOR THE  
23 ABSOLUTE DIVORCE OR ANNULMENT, ALL STEPS SOLELY WITHIN THE APPLICANT'S  
24 POWER TO REMOVE ALL BARRIERS TO REMARRIAGE BY THE OTHER PARTY TO THE  
25 MARRIAGE; OR

26 (II) THE PARTY AGAINST WHOM THE APPLICATION FOR DIVORCE  
27 OR ANNULMENT HAS BEEN FILED HAS WAIVED IN WRITING THE REQUIREMENTS OF  
28 ITEM (I) OF THIS PARAGRAPH.

29 (2) SUBJECT TO THE PROVISIONS OF PARAGRAPH (4) OF THIS  
30 SUBSECTION, IN EITHER A CONTESTED OR UNCONTESTED CASE, A DECREE FOR AN  
31 ABSOLUTE DIVORCE OR ANNULMENT MAY NOT BE ENTERED BY THE COURT  
32 UNLESS THE PARTY WHO FILED THE APPLICATION FOR THE DIVORCE OR  
33 ANNULMENT HAS FILED AND SERVED A SWORN STATEMENT THAT:

34 (I) TO THE BEST OF THAT PARTY'S KNOWLEDGE, THE PARTY HAS  
35 TAKEN ALL STEPS SOLELY WITHIN THAT PARTY'S POWER TO REMOVE ALL  
36 BARRIERS TO REMARRIAGE BY THE OTHER PARTY TO THE MARRIAGE; OR

37 (II) THE OTHER PARTY TO THE MARRIAGE HAS WAIVED IN  
38 WRITING THE REQUIREMENTS OF ITEM (I) OF THIS PARAGRAPH.

39 (3) THE WRITTEN WAIVER DESCRIBED IN PARAGRAPHS (1)(I) AND  
40 (2)(II) OF THIS SUBSECTION SHALL BE FILED WITH THE COURT PRIOR TO THE ENTRY  
41 OF A DECREE FOR AN ABSOLUTE DIVORCE OR ANNULMENT.

1 (4) THE COURT MAY NOT ISSUE A DECREE OF DIVORCE OR  
2 ANNULMENT IF:

3 (I) THE OFFICIAL OF A RELIGIOUS ORDER OR BODY WHO  
4 PERFORMED THE CEREMONY OF MARRIAGE FOR WHICH AN APPLICATION FOR  
5 DIVORCE OR DECREE IS FILED SUBJECT TO THIS SECTION FILES A SWORN  
6 STATEMENT THAT, TO THE BEST OF THAT OFFICIAL'S KNOWLEDGE, THE PARTY TO  
7 THE MARRIAGE WHO FILED THE APPLICATION FOR DIVORCE OR ANNULMENT  
8 FAILED TO TAKE ALL STEPS SOLELY WITHIN THE PARTY'S POWER TO REMOVE ALL  
9 BARRIERS TO REMARRIAGE BY THE OTHER PARTY TO THE MARRIAGE; AND

10 (II) THE OFFICIAL IS LIVING AND AVAILABLE AND COMPETENT TO  
11 TESTIFY WHEN THE APPLICATION FOR THE DIVORCE OR ANNULMENT IS BEING  
12 CONSIDERED BY THE COURT.

13 (D) SUBJECT TO THE PROVISIONS OF SUBSECTION (E) OF THIS SECTION, ANY  
14 INDIVIDUAL WHO KNOWINGLY MAKES A FALSE SWORN STATEMENT UNDER THIS  
15 SECTION SHALL BE SUBJECT TO THE PENALTY OF PERJURY.

16 (E) THE TRUTH OF ANY STATEMENT SUBMITTED TO A COURT IN  
17 ACCORDANCE WITH THE PROVISIONS OF THIS SECTION MAY NOT BE THE SUBJECT  
18 OF ANY JUDICIAL INQUIRY.

19 (F) THIS SECTION MAY NOT BE CONSTRUED TO:

20 (1) REQUIRE ANY PARTY TO CONSULT WITH ANY OFFICIAL OF A  
21 RELIGIOUS ORDER OR BODY AUTHORIZED BY LAW TO PERFORM A MARRIAGE  
22 CEREMONY TO DETERMINE WHETHER THERE EXISTS ANY BARRIER TO  
23 REMARRIAGE; OR

24 (2) AUTHORIZE A COURT TO INQUIRE INTO OR DETERMINE ANY  
25 ECCLESIASTICAL OR RELIGIOUS ISSUE.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed  
27 retroactively and shall be applied to all proceedings for absolute divorce and annulment  
28 filed or pending on or before the effective date of this Act.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 October 1, 1997.