

HOUSE BILL 17

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D4

1998 Regular Session  
8lr0243

(PRE-FILED)

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By: **Delegate Arnick**  
Requested: August 15, 1997  
Introduced and read first time: January 14, 1998  
Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Grounds for Absolute Divorce - Abuse**

3 FOR the purpose of adding a certain ground for absolute divorce; defining a certain  
4 term; providing for the application of this Act; and generally relating to grounds  
5 for absolute divorce.

6 BY repealing and reenacting, with amendments,  
7 Article - Family Law  
8 Section 7-103  
9 Annotated Code of Maryland  
10 (1991 Replacement Volume and 1997 Supplement)

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

13 **Article - Family Law**

14 7-103.

15 (A) IN THIS SECTION, "ABUSE" MEANS A FINDING OF GUILT BY A COURT FOR  
16 ANY OF THE FOLLOWING OFFENSES COMMITTED BY AN INDIVIDUAL AGAINST THE  
17 SPOUSE OF THE INDIVIDUAL:

18 (1) ASSAULT IN ANY DEGREE;

19 (2) AN OFFENSE UNDER THE SEXUAL OFFENSES SUBHEADING OF  
20 ARTICLE 27 OF THE CODE; OR

21 (3) AN OFFENSE UNDER THE LAWS OF ANOTHER STATE OR THE UNITED  
22 STATES THAT WOULD BE AN OFFENSE UNDER ITEM (1) OR (2) OF THIS SUBSECTION IF  
23 COMMITTED IN THIS STATE.

24 [(a)] (B) The court may decree an absolute divorce on the following grounds:

25 (1) adultery;

1 (2) desertion, if:

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

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

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

6 (3) voluntary separation, if:

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

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

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

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

15 (ii) served 12 months of the sentence;

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

19 (6) insanity if:

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

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

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

28 (7) ABUSE.

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

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

4 [(d)] (E) Condonation is not an absolute bar to a decree of an absolute divorce  
5 on the ground of adultery, but is a factor to be considered by the court in determining  
6 whether the divorce should be decreed.

7 [(e)] (F) (1) A court may decree an absolute divorce even if a party has  
8 obtained a limited divorce.

9 (2) If a party obtained a limited divorce on the ground of desertion that  
10 at the time of the decree did not meet the requirements of subsection [(a)(2)] (B)(2) of  
11 this section, the party may obtain an absolute divorce on the ground of desertion  
12 when the desertion meets the requirements of subsection [(a)(2)] (B)(2) of this section.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only  
14 to cases filed on or after the effective date of this Act.

15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 1998.