

SENATE BILL 353

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HB 1135/97 - JUD

1998 Regular Session
8lr2191
CF 8lr0103

By: **Senator Hoffman**

Introduced and read first time: February 5, 1998

Assigned to: Judicial Proceedings

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
6 the applicant has taken or will take all steps solely within the applicant's power
7 to remove all barriers to remarriage by the other party to the marriage;
8 prohibiting a court, when considering an application for an absolute divorce or
9 annulment filed by a party to a marriage under the provisions of this Act, from
10 issuing a decree of divorce or annulment unless certain statements are filed or
11 the court makes a certain determination; defining a term; providing a penalty
12 under certain circumstances; providing for the scope, application, and
13 construction of this Act; and generally relating to absolute divorce and
14 annulment and the removal of barriers to remarriage.

15 BY adding to
16 Article - Family Law
17 Section 7-104.1
18 Annotated Code of Maryland
19 (1991 Replacement Volume and 1997 Supplement)

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

22 **Article - Family Law**

23 7-104.1.

24 (A) (1) IN THIS SECTION, "BARRIER TO REMARRIAGE" MEANS ANY
25 RELIGIOUS OR CONSCIENTIOUS RESTRAINT OR INHIBITION THAT IS IMPOSED ON A
26 PARTY TO A MARRIAGE, UNDER THE PRINCIPLES HELD BY THE OFFICIAL OF THE
27 RELIGIOUS BODY WHO PERFORMED THE MARRIAGE CEREMONY, BECAUSE OF THE
28 COMMISSION OR WITHHOLDING OF ANY VOLUNTARY ACT BY THE OTHER PARTY TO
29 THE MARRIAGE.

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

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

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

9 (B) THIS SECTION APPLIES ONLY TO AN APPLICATION FOR AN ABSOLUTE
10 DIVORCE OR ANNULMENT WITH RESPECT TO A MARRIAGE THAT WAS PERFORMED BY
11 AN OFFICIAL OF A RELIGIOUS BODY AUTHORIZED BY THE RULES AND CUSTOMS OF
12 THAT BODY TO PERFORM A MARRIAGE CEREMONY.

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

15 (I) TO THE BEST OF THE APPLICANT'S KNOWLEDGE, THE
16 APPLICANT HAS TAKEN, OR WILL TAKE PRIOR TO THE ENTRY OF A DECREE FOR THE
17 ABSOLUTE DIVORCE OR ANNULMENT, ALL STEPS SOLELY WITHIN THE APPLICANT'S
18 POWER TO REMOVE ALL BARRIERS TO REMARRIAGE BY THE OTHER PARTY TO THE
19 MARRIAGE; OR

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

23 (2) SUBJECT TO THE PROVISIONS OF PARAGRAPH (5) OF THIS
24 SUBSECTION, IN EITHER A CONTESTED OR UNCONTESTED CASE, A DECREE FOR AN
25 ABSOLUTE DIVORCE OR ANNULMENT MAY NOT BE ENTERED BY THE COURT UNLESS
26 THE PARTY WHO FILED THE APPLICATION FOR THE DIVORCE OR ANNULMENT HAS
27 FILED AND SERVED A SWORN STATEMENT THAT:

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

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

33 (3) IN AN ACTION FOR ABSOLUTE DIVORCE OR ANNULMENT IN WHICH
34 THE PARTY AGAINST WHOM THE APPLICATION HAS BEEN FILED DOES NOT CONTEST
35 THE REQUESTED RELIEF, OR IF THE PARTY INDEPENDENTLY FILES A
36 COUNTERCLAIM FOR SIMILAR RELIEF, A DECREE OF DIVORCE OR ANNULMENT MAY
37 NOT BE ENTERED UNLESS EACH PARTY HAS FILED AND SERVED THE SWORN
38 STATEMENT DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION.

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

4 (5) THE COURT MAY NOT ISSUE A DECREE OF DIVORCE OR ANNULMENT
5 IF THE COURT DETERMINES THAT THE INDIVIDUAL WHO SUBMITTED THE SWORN
6 STATEMENT UNDER PARAGRAPH (2) OF THIS SUBSECTION DID SO WITH KNOWLEDGE
7 THAT THE STATEMENT WAS FALSE.

8 (D) ANY INDIVIDUAL WHO KNOWINGLY MAKES A FALSE SWORN STATEMENT
9 UNDER THIS SECTION SHALL BE SUBJECT TO THE PENALTY OF PERJURY.

10 (E) THIS SECTION MAY NOT BE CONSTRUED TO:

11 (1) REQUIRE ANY PARTY TO CONSULT WITH ANY OFFICIAL OF A
12 RELIGIOUS BODY AUTHORIZED BY LAW TO PERFORM A MARRIAGE CEREMONY TO
13 DETERMINE WHETHER THERE EXISTS ANY BARRIER TO REMARRIAGE;

14 (2) AUTHORIZE A COURT TO INQUIRE INTO OR DETERMINE ANY
15 ECCLESIASTICAL OR RELIGIOUS ISSUE;

16 (3) AUTHORIZE A COURT TO ORDER ANY PARTY TO REMOVE A BARRIER
17 TO REMARRIAGE;

18 (4) INHIBIT OR RESTRAIN AN INDIVIDUAL FROM PARTICIPATING IN
19 ECCLESIASTICAL TRIBUNAL PROCEEDINGS FOR A DECREE OF MATRIMONIAL
20 NULLITY OR MARITAL DISSOLUTION ACCORDING TO THE DULY ESTABLISHED
21 RELIGIOUS RULES AND CUSTOMS OF THAT RELIGIOUS BODY; OR

22 (5) INHIBIT OR RESTRAIN A RELIGIOUS BODY FROM ADHERING TO ITS
23 ECCLESIASTICAL RULES AND CUSTOMS GOVERNING MARRIAGE.

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

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