
By: **Delegates Rosenberg, McIntosh, Finifter, Turner, Zirkin, Morhaim, and Menes**

Introduced and read first time: February 10, 1999
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 27, 1999

CHAPTER _____

1 AN ACT concerning

2 **Divorce and Annulment - Removal of Religious 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~~ a complaint or countercomplaint for an absolute
5 divorce or annulment to ~~include certain statements in the application for divorce~~
6 ~~or annulment~~ file, under certain circumstances, an affidavit that allege states
7 that the ~~applicant~~ affiant has taken ~~or will take~~ all steps solely within the
8 ~~applicant's power~~ affiant's control to remove all religious barriers to remarriage
9 by the other party to the marriage; prohibiting a court, ~~when considering an~~
10 ~~application for an absolute divorce or annulment filed by a party to a marriage~~
11 ~~under the provisions of this Act~~ under certain circumstances, from issuing a
12 ~~decree of for an absolute divorce or annulment unless until a certain statements~~
13 ~~are affidavit is filed or the court makes a certain determination; defining a term;~~
14 ~~providing a penalty under certain circumstances; providing for the scope,~~
15 ~~application, and construction of this Act; and generally relating to absolute~~
16 divorce and annulment and the removal of religious barriers to remarriage.

17 BY adding to
18 Article - Family Law
19 Section 7-104.1
20 Annotated Code of Maryland
21 (1999 Replacement Volume)

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

1

Article - Family Law

2 7-104.1.

3 (A) (1) ~~IN THIS SECTION, "BARRIER TO REMARRIAGE" MEANS ANY~~
4 ~~RELIGIOUS OR CONSCIENTIOUS RESTRAINT OR INHIBITION THAT IS IMPOSED ON A~~
5 ~~PARTY TO A MARRIAGE, UNDER THE PRINCIPLES HELD BY THE OFFICIAL OF THE~~
6 ~~RELIGIOUS BODY WHO PERFORMED THE MARRIAGE CEREMONY, BECAUSE OF THE~~
7 ~~COMMISSION OR WITHHOLDING OF ANY VOLUNTARY ACT BY THE OTHER PARTY TO~~
8 ~~THE MARRIAGE.~~

9 (2) ~~"BARRIER TO REMARRIAGE" DOES NOT INCLUDE ANY SITUATION IN~~
10 ~~WHICH:~~

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

13 (II) ~~THE PARTY IS REQUIRED TO INCUR EXPENSES IN CONNECTION~~
14 ~~WITH THE REMOVAL OF THE RESTRAINT OR INHIBITION TO REMARRIAGE AND THE~~
15 ~~OTHER PARTY REFUSES TO PROVIDE REASONABLE REIMBURSEMENT FOR THOSE~~
16 ~~EXPENSES.~~

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

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

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

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

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

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

1 (HI) ~~THE OTHER PARTY TO THE MARRIAGE HAS WAIVED IN WRITING~~
2 ~~THE REQUIREMENTS OF ITEM (I) OF THIS PARAGRAPH.~~

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

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

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

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

18 (E) ~~THIS SECTION MAY NOT BE CONSTRUED TO:~~

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

22 (2) ~~AUTHORIZE A COURT TO INQUIRE INTO OR DETERMINE ANY~~
23 ~~ECCLESIASTICAL OR RELIGIOUS ISSUE;~~

24 (3) ~~AUTHORIZE A COURT TO ORDER ANY PARTY TO REMOVE A BARRIER~~
25 ~~TO REMARRIAGE;~~

26 (4) ~~INHIBIT OR RESTRAIN AN INDIVIDUAL FROM PARTICIPATING IN~~
27 ~~ECCLESIASTICAL TRIBUNAL PROCEEDINGS FOR A DECREE OF MATRIMONIAL~~
28 ~~NULLITY OR MARITAL DISSOLUTION ACCORDING TO THE DULY ESTABLISHED~~
29 ~~RELIGIOUS RULES AND CUSTOMS OF THAT RELIGIOUS BODY; OR~~

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

32 (A) A PARTY WHO FILES A COMPLAINT OR COUNTERCOMPLAINT FOR
33 ABSOLUTE DIVORCE OR ANNULMENT SHALL FILE, ON THE REQUEST OF THE OTHER
34 PARTY, AN AFFIDAVIT STATING THAT THE AFFIANT HAS TAKEN ALL STEPS SOLELY
35 WITHIN THE AFFIANT'S CONTROL TO REMOVE ALL RELIGIOUS BARRIERS TO
36 REARRIAGE BY THE OTHER PARTY.

1 (B) IF AN AFFIDAVIT IS REQUESTED UNDER THIS SECTION, THE COURT MAY
2 NOT ENTER A DECREE FOR AN ABSOLUTE DIVORCE OR ANNULMENT UNTIL THE
3 AFFIDAVIT IS FILED.

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

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 1999.