

SENATE BILL 406

Unofficial Copy
D4
HB 42/98 - JUD

1999 Regular Session
9r1367
CF HB 72

By: **Senators Forehand and Ruben**

Introduced and read first time: February 5, 1999

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Award of Expenses**

3 FOR the purpose of adding absolute divorce, limited divorce, and property disposition
4 in annulment or divorce to the types of proceedings in which a court may award
5 to either party an amount for the reasonable and necessary expense of
6 prosecuting or defending the proceeding; requiring the court to consider certain
7 factors before making an award; authorizing the court to award reimbursement
8 for certain expenses previously paid; providing for the payment of counsel fees
9 directly to certain persons; providing for the application of this Act; and
10 generally relating to the award of reasonable and necessary expenses in certain
11 proceedings.

12 BY adding to

13 Article - Family Law
14 Section 7-107 and 8-214
15 Annotated Code of Maryland
16 (1999 Replacement Volume)

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

19 **Article - Family Law**

20 7-107.

21 (A) IN THIS SECTION, "REASONABLE AND NECESSARY EXPENSE" INCLUDES:

22 (1) SUIT MONEY;

23 (2) COUNSEL FEES; AND

24 (3) COSTS.

25 (B) AT ANY POINT IN A PROCEEDING UNDER THIS TITLE, THE COURT MAY
26 ORDER EITHER PARTY TO PAY TO THE OTHER PARTY AN AMOUNT FOR THE

1 REASONABLE AND NECESSARY EXPENSE OF PROSECUTING OR DEFENDING THE
2 PROCEEDING.

3 (C) BEFORE ORDERING THE PAYMENT, THE COURT SHALL CONSIDER:

4 (1) THE FINANCIAL RESOURCES AND FINANCIAL NEEDS OF BOTH
5 PARTIES; AND

6 (2) WHETHER THERE WAS SUBSTANTIAL JUSTIFICATION FOR
7 PROSECUTING OR DEFENDING THE PROCEEDING.

8 (D) UPON A FINDING BY THE COURT THAT THERE WAS AN ABSENCE OF
9 SUBSTANTIAL JUSTIFICATION OF A PARTY FOR PROSECUTING OR DEFENDING THE
10 PROCEEDING, AND ABSENT A FINDING BY THE COURT OF GOOD CAUSE TO THE
11 CONTRARY, THE COURT SHALL AWARD TO THE OTHER PARTY THE REASONABLE AND
12 NECESSARY EXPENSE OF PROSECUTING OR DEFENDING THE PROCEEDING.

13 (E) THE COURT MAY AWARD REIMBURSEMENT FOR ANY REASONABLE AND
14 NECESSARY EXPENSE THAT HAS PREVIOUSLY BEEN PAID.

15 (F) AS TO ANY AMOUNT AWARDED FOR COUNSEL FEES, THE COURT MAY:

16 (1) ORDER THAT THE AMOUNT AWARDED BE PAID DIRECTLY TO THE
17 LAWYER; AND

18 (2) ENTER JUDGMENT IN FAVOR OF THE LAWYER.

19 8-214.

20 (A) IN THIS SECTION, "REASONABLE AND NECESSARY EXPENSE" INCLUDES:

21 (1) SUIT MONEY;

22 (2) COUNSEL FEES; AND

23 (3) COSTS.

24 (B) AT ANY POINT IN A PROCEEDING UNDER THIS SUBTITLE, THE COURT MAY
25 ORDER EITHER PARTY TO PAY TO THE OTHER PARTY AN AMOUNT FOR THE
26 REASONABLE AND NECESSARY EXPENSE OF PROSECUTING OR DEFENDING THE
27 PROCEEDING.

28 (C) BEFORE ORDERING THE PAYMENT, THE COURT SHALL CONSIDER:

29 (1) THE FINANCIAL RESOURCES AND FINANCIAL NEEDS OF BOTH
30 PARTIES; AND

31 (2) WHETHER THERE WAS SUBSTANTIAL JUSTIFICATION FOR
32 PROSECUTING OR DEFENDING THE PROCEEDING.

1 (D) UPON A FINDING BY THE COURT THAT THERE WAS AN ABSENCE OF
2 SUBSTANTIAL JUSTIFICATION OF A PARTY FOR PROSECUTING OR DEFENDING THE
3 PROCEEDING, AND ABSENT A FINDING BY THE COURT OF GOOD CAUSE TO THE
4 CONTRARY, THE COURT SHALL AWARD TO THE OTHER PARTY THE REASONABLE AND
5 NECESSARY EXPENSE OF PROSECUTING OR DEFENDING THE PROCEEDING.

6 (E) THE COURT MAY AWARD REIMBURSEMENT FOR ANY REASONABLE AND
7 NECESSARY EXPENSE THAT HAS PREVIOUSLY BEEN PAID.

8 (F) AS TO ANY AMOUNT AWARDED FOR COUNSEL FEES, THE COURT MAY:

9 (1) ORDER THAT THE AMOUNT AWARDED BE PAID DIRECTLY TO THE
10 LAWYER; AND

11 (2) ENTER JUDGMENT IN FAVOR OF THE LAWYER.

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

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