

HOUSE BILL 346

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2003 Regular Session
(3r1658)

ENROLLED BILL
-- Judiciary/Judicial Proceedings --

Introduced by **Delegates Dumais, Anderson, Barkley, Gutierrez, Lee,
McComas, Montgomery, Petzold, and Simmons**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

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

3 FOR the purpose of adding cruelty of treatment toward a minor child of the
4 complaining party and excessively vicious conduct toward a minor child of the
5 complaining party as grounds for an absolute divorce; providing that
6 recrimination is not a bar to obtaining a divorce on any of the specified absolute
7 divorce grounds; ~~prohibiting a minor child from being compelled to testify in a~~
8 ~~certain divorce proceeding except under certain circumstances;~~ and generally
9 relating to grounds for an absolute divorce.

10 BY repealing and reenacting, with amendments,
11 Article - Family Law
12 Section 7-103
13 Annotated Code of Maryland
14 (1999 Replacement Volume and 2002 Supplement)

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

3 **Article - Family Law**

4 7-103.

5 (a) The court may decree an absolute divorce on the following grounds:

6 (1) adultery;

7 (2) desertion, if:

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

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

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

12 (3) voluntary separation, if:

13 (i) the parties voluntarily have lived separate and apart without
14 cohabitation for 12 months without interruption before the filing of the application for
15 divorce; and

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

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

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

21 (ii) served 12 months of the sentence;

22 (5) 2-year separation, when the parties have lived separate and apart
23 without cohabitation for 2 years without interruption before the filing of the
24 application for divorce;

25 (6) insanity if:

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

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

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

3 (7) cruelty of treatment toward the complaining party OR A MINOR
4 CHILD OF THE COMPLAINING PARTY, if there is no reasonable expectation of
5 reconciliation; or

6 (8) excessively vicious conduct toward the complaining party OR A
7 MINOR CHILD OF THE COMPLAINING PARTY, if there is no reasonable expectation of
8 reconciliation.

9 (b) Recrimination is not a bar to either party obtaining an absolute divorce on
10 the grounds set forth in subsection (a)(1) through [(5)] (8) of this section, but is a
11 factor to be considered by the court in a case involving the ground of adultery.

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

14 (d) Condonation is not an absolute bar to a decree of an absolute divorce on the
15 ground of adultery, but is a factor to be considered by the court in determining
16 whether the divorce should be decreed.

17 (e) (1) A court may decree an absolute divorce even if a party has obtained a
18 limited divorce.

19 (2) If a party obtained a limited divorce on the ground of desertion that
20 at the time of the decree did not meet the requirements of subsection (a)(2) of this
21 section, the party may obtain an absolute divorce on the ground of desertion when the
22 desertion meets the requirements of subsection (a)(2) of this section.

23 ~~(F) UNLESS THE COURT AFFIRMATIVELY DETERMINES THAT IT IS IN THE~~
24 ~~BEST INTEREST OF A MINOR CHILD, THE CHILD MAY NOT BE COMPELLED TO TESTIFY~~
25 ~~IN A PROCEEDING FOR ABSOLUTE DIVORCE ON THE GROUNDS OF CRUELTY OF~~
26 ~~TREATMENT TOWARD THE CHILD OR EXCESSIVELY VICIOUS CONDUCT TOWARD THE~~
27 ~~CHILD.~~

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2003.