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By: **Delegates Dumais, Anderson, Barkley, Gutierrez, Lee, McComas,  
Montgomery, Petzold, and Simmons**

Introduced and read first time: February 3, 2003

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of adding cruelty of treatment toward a child of the complaining  
4 party and excessively vicious conduct toward a child of the complaining party as  
5 grounds for an absolute divorce; providing that recrimination is not a bar to  
6 obtaining a divorce on any of the specified absolute divorce grounds; and  
7 generally relating to grounds for an absolute divorce.

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

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

15 **Article - Family Law**

16 7-103.

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

18 (1) adultery;

19 (2) desertion, if:

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

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

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

24 (3) voluntary separation, if:

1 (i) the parties voluntarily have lived separate and apart without  
2 cohabitation for 12 months without interruption before the filing of the application for  
3 divorce; and

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

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

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

9 (ii) served 12 months of the sentence;

10 (5) 2-year separation, when the parties have lived separate and apart  
11 without cohabitation for 2 years without interruption before the filing of the  
12 application for divorce;

13 (6) insanity if:

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

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

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

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

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

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

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

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

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

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

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