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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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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2003

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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)

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

17 **Article - Family Law**

18 7-103.

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

20 (1) adultery;

- 1           (2)     desertion, if:
- 2                   (i)     the desertion has continued for 12 months without interruption  
3 before the filing of the application for divorce;
- 4                   (ii)    the desertion is deliberate and final; and
- 5                   (iii)  there is no reasonable expectation of reconciliation;
- 6           (3)     voluntary separation, if:
- 7                   (i)     the parties voluntarily have lived separate and apart without  
8 cohabitation for 12 months without interruption before the filing of the application for  
9 divorce; and
- 10                  (ii)    there is no reasonable expectation of reconciliation;
- 11           (4)     conviction of a felony or misdemeanor in any state or in any court of  
12 the United States if before the filing of the application for divorce the defendant has:
- 13                   (i)     been sentenced to serve at least 3 years or an indeterminate  
14 sentence in a penal institution; and
- 15                   (ii)    served 12 months of the sentence;
- 16           (5)     2-year separation, when the parties have lived separate and apart  
17 without cohabitation for 2 years without interruption before the filing of the  
18 application for divorce;
- 19           (6)     insanity if:
- 20                   (i)     the insane spouse has been confined in a mental institution,  
21 hospital, or other similar institution for at least 3 years before the filing of the  
22 application for divorce;
- 23                   (ii)    the court determines from the testimony of at least 2 physicians  
24 who are competent in psychiatry that the insanity is incurable and there is no hope of  
25 recovery; and
- 26                   (iii)  1 of the parties has been a resident of this State for at least 2  
27 years before the filing of the application for divorce;
- 28           (7)     cruelty of treatment toward the complaining party OR A MINOR  
29 CHILD OF THE COMPLAINING PARTY, if there is no reasonable expectation of  
30 reconciliation; or
- 31           (8)     excessively vicious conduct toward the complaining party OR A  
32 MINOR CHILD OF THE COMPLAINING PARTY, if there is no reasonable expectation of  
33 reconciliation.

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

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

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

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

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

15 (F) UNLESS THE COURT AFFIRMATIVELY DETERMINES THAT IT IS IN THE  
16 BEST INTEREST OF A MINOR CHILD, THE CHILD MAY NOT BE COMPELLED TO TESTIFY  
17 IN A PROCEEDING FOR ABSOLUTE DIVORCE ON THE GROUNDS OF CRUELTY OF  
18 TREATMENT TOWARD THE CHILD OR EXCESSIVELY VICIOUS CONDUCT TOWARD THE  
19 CHILD.

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