

Department of Legislative Services  
Maryland General Assembly  
2006 Session

**FISCAL AND POLICY NOTE**

Senate Bill 85

(Senator Grosfeld, *et al.*)

Judicial Proceedings

Judiciary

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**Family Law - Family Home or Family Use Personal Property - Termination of Order or Decree**

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This bill increases, from three to five years, the time period that a provision concerning the family home or family use personal property remains in effect after the date a court grants an annulment or a limited or absolute divorce. The five-year limitation applies to a limited divorce notwithstanding the subsequent granting of an absolute divorce.

The bill specifies that it applies only to divorce or annulment actions filed on or after the bill's October 1, 2006 effective date.

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**Fiscal Summary**

**State Effect:** None. The bill's requirements could be handled with existing resources.

**Local Effect:** None. The bill's requirements could be handled with existing resources.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** A "family home" is the property in Maryland that:

- was used as the principal residence of both parties when they lived together;
- is owned or leased by one or both parties at the time of a divorce or annulment proceeding; and

- is being used or will be used as the principal residence by one or both parties and a child.

A family home does not include property acquired before the marriage, acquired by inheritance or gift from a third party, or excluded by valid agreement.

“Family use personal property” includes motor vehicles, furniture, furnishings, and household appliances. Family use personal property does not include property acquired by inheritance or gift from a third party or excluded by valid agreement.

When a court grants an annulment or a limited or absolute divorce, the court may grant sole possession and use of the family home or family use personal property to one of the parties or divide the possession and use of the property between the parties. This is regardless of how the family home or family use personal property is titled, owned, or leased.

In awarding the family home or family use personal property, the court may decide that one of the parties will have sole possession and use or the court may divide possession and use between the parties. The following factors must be considered by the court when awarding use and possession:

- the best interests of the child;
- the interest of each party in continuing to use all or part of family use personal property, or to occupy or use all or part of the family home as a dwelling;
- the interest of each party in continuing to use all or part of family use personal property or the family home for the production of income; and
- any hardship that is imposed on the party whose interest in the family home or family use personal property is infringed by a court order.

A provision regarding the family home or family use property must terminate no later than three years after the date a court grants an annulment or a limited or absolute divorce. The three-year limitation applies to limited divorces notwithstanding the subsequent granting of an absolute divorce.

## **Additional Information**

**Prior Introductions:** This bill is a reintroduction of SB 261 of the 2005 session. SB 261 passed the Senate, but was given an unfavorable report by the Judiciary Committee.

**Cross File:** None.

**Information Source(s):** Department of Human Resources, Judiciary (Administrative Office of the Courts), Department of Legislative Services

**Fiscal Note History:** First Reader - January 20, 2006  
M/jr

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