

Department of Legislative Services

Maryland General Assembly

2007 Session

FISCAL AND POLICY NOTE

Senate Bill 533

(Senator Gladden, *et al.*)

Judicial Proceedings

Divorce and Annulment - Removal of Religious Barriers to Remarriage

This bill requires parties to an action for absolute divorce or annulment to affirm that steps have been taken to remove all religious barriers to remarriage under certain circumstances.

This bill applies only to cases pending or filed on or after the bill's October 1, 2007 date.

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.

Analysis

Bill Summary: This bill provides that a party who files a complaint or countercomplaint for an absolute divorce or annulment must file, on request of the other party, an affidavit stating that the affiant has taken all steps solely within the affiant's control to remove all religious barriers to remarriage by the other party. If such an affidavit is requested, the court may not enter a decree for an absolute divorce or annulment until the affidavit is filed.

This bill may not be construed to: • require a party to consult with a religious official to determine whether a religious barrier to remarriage exists; • authorize a court to inquire

into or determine an ecclesiastical or religious issue; • authorize a court to order a party to remove a religious barrier to remarriage; • inhibit or restrain an individual from taking part in ecclesiastical tribunal proceedings for a decree of matrimonial nullity or dissolution according to the rules and customs of that religious body; or • inhibit or restrain a religious body from adhering to its ecclesiastical rules and customs governing marriage.

Current Law: Parties to absolute divorce or annulment proceedings are not required to take steps to remove religious barriers to remarriage by the other party.

Background: Based on a 1983 New York statute, the bill seeks to address a problem for people who obtain a civil divorce, but still face religious barriers to remarriage if the party wishes to remarry within the faith.

For example, under traditional Jewish law, a civil divorce does not dissolve the marriage. Only a religious divorce, provided by a signed writ of divorce called a “*get*,” completely dissolves the marriage for a person who wishes to remarry within the Orthodox Jewish religion. By tradition, only the husband has the power to grant or withhold the *get*. The rabbinic authorities may not compel the husband to grant the *get* if he does not wish to do so. Until a woman receives a *get*, she may not remarry within her religion. If she does remarry without the *get*, the new marriage is not considered valid. The woman is considered an adulterer, and any children from the new marriage are considered illegitimate.

As a result, remarriage is not a practical option for these women. They have been referred to as “*agunah*” or “chained wives,” a term that comes from the Hebrew word for women without a *get*. Because the husband has the sole power to grant a *get*, Orthodox Jewish women who want the option to remarry in the faith at a future time could be forced to give up property rights, alimony, and child custody by their husbands. Two Baltimore women have received media coverage for their efforts, to force their husbands to provide a *get*.

State and Local Fiscal Effect: The Administrative Office of the Courts advises that this bill could require the filing of additional documents with the courts and may result in delay of the final judgment. More cases could become contested. However, because of the relatively limited situations to which this bill would apply, it is anticipated that the Judiciary could meet the requirements of this bill using existing resources.

Additional Information

Prior Introductions: This bill is similar to a reintroduction of SB 374/HB 1099 of 2000. SB 374 passed the Senate, as amended, but received an unfavorable report from the House Judiciary Committee. HB 1099 received an unfavorable report from the House Judiciary Committee. Similar bills were introduced during the 1999, 1998, and 1997 sessions.

Cross File: HB 324 (Delegate Rosenberg, *et al.*) – Judiciary is listed as a cross file but it is not identical.

Information Source(s): Judiciary (Administrative Office of the Courts), Office of Attorney General, *Maryland Daily Record*, *Baltimore Jewish Times*, Maryland Jewish Alliance, Department of Legislative Services

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