

SENATE BILL 168

D4
HB 1076/99 – HRU

8lr1067

By: **Senators Greenip, Colburn, Haines, Mooney, Muse, and Stoltzfus**
Introduced and read first time: January 18, 2008
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Covenant Marriage**

3 FOR the purpose of authorizing a man and a woman to enter into a covenant
4 marriage; requiring the parties to a covenant marriage to indicate their intent
5 to enter into a covenant marriage on the marriage license application and
6 execute a declaration of intent; requiring a declaration of intent to contain
7 certain information and be attached to the marriage license; establishing that a
8 court may decree an absolute divorce in the case of a covenant marriage only on
9 certain grounds under certain circumstances; defining a certain term; and
10 generally relating to covenant marriages.

11 BY adding to
12 Article – Family Law
13 Section 2–203
14 Annotated Code of Maryland
15 (2006 Replacement Volume and 2007 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Family Law
18 Section 2–402(b), 2–403(b), and 7–103
19 Annotated Code of Maryland
20 (2006 Replacement Volume and 2007 Supplement)

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

23 **Article – Family Law**

24 **2–203.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 (A) IN THIS SECTION, "COVENANT MARRIAGE" MEANS A MARRIAGE
2 ENTERED INTO BY A MAN AND A WOMAN IN WHICH THE PARTIES AGREE TO:

3 (1) PARTICIPATE IN PREMARITAL COUNSELING;

4 (2) MAKE ALL REASONABLE EFFORTS TO PRESERVE THE
5 MARRIAGE BEFORE SEEKING A DIVORCE, INCLUDING MARITAL COUNSELING;
6 AND

7 (3) WAIVE THE RIGHT TO A NO-FAULT DIVORCE.

8 (B) A MAN AND A WOMAN MAY ENTER INTO A COVENANT MARRIAGE BY
9 DECLARING THEIR INTENT TO ENTER INTO A COVENANT MARRIAGE ON THE
10 MARRIAGE LICENSE APPLICATION UNDER § 2-402 OF THIS TITLE AND BY
11 EXECUTING A DECLARATION OF INTENT IN ACCORDANCE WITH SUBSECTION (C)
12 OF THIS SECTION.

13 (C) A DECLARATION OF INTENT SHALL:

14 (1) BE ATTACHED TO A MARRIAGE LICENSE IN ACCORDANCE
15 WITH § 2-403 OF THIS TITLE; AND

16 (2) CONTAIN:

17 (I) A STATEMENT BY THE PARTIES THAT:

18 1. THEY INTEND TO ENTER INTO A COVENANT
19 MARRIAGE;

20 2. THEY HAVE RECEIVED PREMARITAL COUNSELING
21 CONCERNING THE NATURE, PURPOSES, AND RESPONSIBILITIES OF MARRIAGE;

22 3. BEFORE SEEKING A DIVORCE, THEY AGREE TO
23 MAKE ALL REASONABLE EFFORTS TO PRESERVE THE MARRIAGE, INCLUDING
24 MARITAL COUNSELING; AND

25 4. THEY UNDERSTAND THE EXCLUSIVE GROUNDS
26 FOR DIVORCE UNDER § 7-103 OF THIS ARTICLE;

27 (II) AN AFFIDAVIT BY THE PARTIES THAT STATES THAT THE
28 PARTIES HAVE RECEIVED PREMARITAL COUNSELING FROM ANY OFFICIAL OR
29 CLERGYMAN OF ANY RELIGIOUS ORDER OR BODY, INCLUDING A PRIEST, RABBI,
30 OR MINISTER, OR A MARRIAGE COUNSELOR;

1 (III) A STATEMENT BY THE COUNSELOR WITNESSED BY A
2 NOTARY PUBLIC THAT CONFIRMS THAT THE PARTIES HAVE RECEIVED
3 PREMARITAL COUNSELING; AND

4 (IV) THE SIGNATURE OF BOTH PARTIES WITNESSED BY A
5 NOTARY PUBLIC.

6 2-402.

7 (b) Except as provided in subsections (d) and (e) of this section, to apply for a
8 license, 1 of the parties to be married shall:

9 (1) appear before the clerk and give, under oath, the following
10 information, which shall be placed on an application form by the clerk:

11 (i) the full name of each party;

12 (ii) the place of residence of each party;

13 (iii) the age of each party;

14 (iv) whether the parties are related by blood or marriage and, if
15 so, in which degree of relationship;

16 (v) the marital status of each party; [and]

17 (vi) whether either party was married previously, and the date
18 and place of each death or judicial determination that ended any former marriage;
19 AND

20 (VII) WHETHER THE PARTIES INTEND TO ENTER INTO A
21 COVENANT MARRIAGE, AS DEFINED IN § 2-203 OF THIS TITLE;

22 (2) sign the application form; and

23 (3) provide the clerk with the Social Security number of each party
24 who has a Social Security number.

25 2-403.

26 (b) (1) Attached to a license shall be 2 certificate forms that:

27 (i) read, "I hereby certify that on this day of
28 (state here month and year), (state here time), at (state here location),
29 in accordance with the license issued by the Clerk of the Circuit Court for
30 (state here jurisdiction), I united in marriage the following individuals:

1
(state here name of husband)

2
(state here name of wife)”;

3 (ii) restate all information concerning the individuals married
4 that is stated on the marriage license; and

5 (iii) provide a space for the signature of the authorized official
6 who performs the marriage ceremony.

7 (2) Attached to a license, in the case of a Society of Friends marriage
8 ceremony, shall be 2 certificate forms that:

9 (i) read, “We hereby certify that on this day of
10 (state here month and year), (state here time), at (state here location), we,
11 (state here name of husband) and (state here name of wife) were
12 united in marriage in accordance with the ceremony of the Society of Friends and in
13 accordance with the license issued by the Clerk of the Circuit Court for (state
14 here jurisdiction)”;

15 (ii) restate all information concerning the individuals married
16 that is stated on the marriage license; and

17 (iii) provide spaces for the signatures of the parties and the 2
18 overseers of the marriage ceremony.

19 **(3) ATTACHED TO A LICENSE, IN THE CASE OF A COVENANT**
20 **MARRIAGE, SHALL BE THE CERTIFICATE FORMS REQUIRED UNDER PARAGRAPH**
21 **(1) OR (2) OF THIS SUBSECTION AND A DECLARATION OF INTENT EXECUTED IN**
22 **ACCORDANCE WITH § 2–203 OF THIS TITLE.**

23 7–103.

24 (a) [The] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,**
25 **THE** court may decree an absolute divorce on the following grounds:

26 (1) adultery;

27 (2) desertion, if:

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

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

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

2 (3) voluntary separation, if:

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

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

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

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

11 (ii) served 12 months of the sentence;

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

15 (6) insanity if:

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

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

22 (iii) 1 of the parties has been a resident of this State for at least
23 2 years before the filing of the application for divorce;

24 (7) cruelty of treatment toward the complaining party or a minor child
25 of the complaining party, if there is no reasonable expectation of reconciliation; or

26 (8) excessively vicious conduct toward the complaining party or a
27 minor child of the complaining party, if there is no reasonable expectation of
28 reconciliation.

29 **(B) (1) SUBJECT TO THE COUNSELING REQUIREMENT UNDER**
30 **PARAGRAPH (2) OF THIS SUBSECTION, IF THE PARTIES HAVE ENTERED INTO A**
31 **COVENANT MARRIAGE UNDER § 2-203 OF THIS ARTICLE, THE COURT MAY**
32 **DECREE AN ABSOLUTE DIVORCE ON THE GROUNDS SPECIFIED IN SUBSECTION**
33 **(A)(1), (2), (4), (6), (7), OR (8) OF THIS SECTION.**

1 **(2) THE COURT MAY GRANT AN ABSOLUTE DIVORCE UNDER THIS**
2 **SUBSECTION ONLY IF THE PARTIES HAVE SUBMITTED TO THE COURT:**

3 **(I) AN AFFIDAVIT BY THE PARTIES THAT STATES THAT THE**
4 **PARTIES HAVE RECEIVED MARITAL COUNSELING FROM ANY OFFICIAL OR**
5 **CLERGYMAN OF ANY RELIGIOUS ORDER OR BODY, INCLUDING A PRIEST, RABBI,**
6 **OR MINISTER, OR A MARRIAGE COUNSELOR IN AN EFFORT TO PRESERVE THE**
7 **MARRIAGE; AND**

8 **(II) A STATEMENT BY THE COUNSELOR WITNESSED BY A**
9 **NOTARY PUBLIC THAT CONFIRMS THAT THE PARTIES HAVE RECEIVED MARITAL**
10 **COUNSELING IN AN EFFORT TO PRESERVE THE MARRIAGE.**

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

14 **[(c)] (D)** Res judicata with respect to another ground under this section is
15 not a bar to either party obtaining an absolute divorce on the ground of 2-year
16 separation.

17 **[(d)] (E)** Condonation is not an absolute bar to a decree of an absolute
18 divorce on the ground of adultery, but is a factor to be considered by the court in
19 determining whether the divorce should be decreed.

20 **[(e)] (F) (1)** A court may decree an absolute divorce even if a party has
21 obtained a limited divorce.

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

26 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
27 **October 1, 2008.**