

# SENATE BILL 714

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By: **Senator Zirkin**

Introduced and read first time: February 10, 2010

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Grounds for Divorce – Separation**

3 FOR the purpose of altering certain grounds for absolute divorce by authorizing a  
4 court to decree an absolute divorce on the grounds of separation if either party  
5 has filed an application for divorce, a certain period of time has passed since a  
6 party filed an application for divorce, and there is no reasonable expectation of  
7 reconciliation; repealing a certain time period of separation as grounds for  
8 absolute divorce; and generally relating to the grounds for absolute divorce.

9 BY repealing and reenacting, with amendments,  
10 Article – Family Law  
11 Section 7–103  
12 Annotated Code of Maryland  
13 (2006 Replacement Volume and 2009 Supplement)

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

16 **Article – Family Law**

17 7–103.

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

19 (1) adultery;

20 (2) desertion, if:

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

3 (3) [voluntary] separation, if:

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

7 (I) EITHER PARTY HAS FILED AN APPLICATION FOR  
8 DIVORCE;

9 (II) 12 MONTHS HAVE PASSED SINCE A PARTY FILED THE  
10 APPLICATION FOR DIVORCE; AND

11 [(ii)] (III) there is no reasonable expectation of reconciliation;

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

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

16 (ii) served 12 months of the sentence;

17 [(5) 2-year separation, when the parties have lived separate and apart  
18 without cohabitation for 2 years without interruption before the filing of the  
19 application for divorce;]

20 [(6)] (5) insanity if:

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

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

27 (iii) 1 of the parties has been a resident of this State for at least  
28 2 years before the filing of the application for divorce;

29 [(7)] (6) cruelty of treatment toward the complaining party or a  
30 minor child of the complaining party, if there is no reasonable expectation of  
31 reconciliation; or

1           **[(8) (7)**       excessively vicious conduct toward the complaining party or  
2 a minor child of the complaining party, if there is no reasonable expectation of  
3 reconciliation.

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

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

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

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

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

18           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
19 October 1, 2010.