

HOUSE BILL 402

D4

11r0825
CF SB 139

By: **Delegates Simmons and Kramer**

Introduced and read first time: February 4, 2011

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2011

CHAPTER _____

1 AN ACT concerning

2 **Family Law – Grounds for Absolute Divorce –~~Time Requirements~~**

3 FOR the purpose of altering ~~certain grounds~~ a certain ground for absolute divorce by
4 reducing the amount of time required for the parties to have lived separate and
5 apart without cohabitation; repealing a certain ground for divorce; making a
6 conforming change; and generally relating to grounds for absolute divorce.

7 BY repealing and reenacting, with amendments,
8 Article – Family Law
9 Section 7–103(a) and (c)
10 Annotated Code of Maryland
11 (2006 Replacement Volume and 2010 Supplement)

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

14 **Article – Family Law**

15 7–103.

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

17 (1) adultery;

18 (2) desertion, if:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

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

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

5 (3) ~~voluntary separation, if:~~

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

9 ~~(ii) there is no reasonable expectation of reconciliation;~~

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

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

14 (ii) served 12 months of the sentence;

15 ~~(5)~~ **(4)** [2-year] **12-MONTH** separation, when the parties have
16 lived separate and apart without cohabitation for [2 years] **12 MONTHS** without
17 interruption before the filing of the application for divorce;

18 ~~(6)~~ **(5)** insanity if:

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

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

25 (iii) 1 of the parties has been a resident of this State for at least
26 2 years before the filing of the application for divorce;

27 ~~(7)~~ **(6)** cruelty of treatment toward the complaining party or a
28 minor child of the complaining party, if there is no reasonable expectation of
29 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 (c) Res judicata with respect to another ground under this section is not a
5 bar to either party obtaining an absolute divorce on the ground of [2-year]
6 12-MONTH separation.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2011.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.