

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

House Bill 402
Judiciary

(Delegates Simmons and Kramer)

Judicial Proceedings

Family Law - Grounds for Absolute Divorce

This bill reduces, from two years to 12 months, the required period of time the parties must have lived separate and apart without cohabitation and without interruption before filing the application for absolute divorce on the ground of involuntary separation. The bill also repeals the ground of voluntary separation.

Fiscal Summary

State Effect: None. The bill's changes will not materially affect the workload of the Judiciary.

Local Effect: None. The bill's changes will not materially affect the workload for the circuit courts.

Small Business Effect: None.

Analysis

Current Law: A court may grant an absolute divorce on the following grounds:

- adultery;
- desertion, if the desertion is deliberate and final, has continued for 12 months without interruption, and there is no reasonable expectation of reconciliation;
- voluntary separation, if the parties have voluntarily lived separate and apart without cohabitation for 12 months without interruption and there is no reasonable expectation of reconciliation;

- conviction of a felony or misdemeanor in any state or federal court, if the defendant has been sentenced to serve at least three years, or an indeterminate sentence, and has served 12 months of the sentence;
- two-year separation, when the parties have lived separate and apart without cohabitation for two years without interruption before the filing of the divorce application;
- insanity, as specified; or
- cruelty of treatment or excessively vicious conduct toward the complaining party or a minor child of the complaining party, if there is no reasonable expectation of reconciliation.

Background: The reduced period of separation that qualifies for an absolute divorce in the bill is more consistent with the period of separation required in the District of Columbia (six months for voluntary separation, otherwise one year) and Virginia (six months if parties have a separation agreement, otherwise one year).

Additional Information

Prior Introductions: SB 577 of 2010 received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: SB 139 (Senator Zirkin) - Judicial Proceedings.

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

Fiscal Note History: First Reader - February 18, 2011
mc/kdm Revised - House Third Reader - March 28, 2011

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