

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 403
Judiciary

(Delegates Simmons and Kramer)

Family Law - Grounds for Divorce

This bill alters the conditions that determine voluntary separation for the purpose of a court granting a limited or absolute divorce. The bill specifies that the parties must be considered to be living separate and apart without cohabitation even if the parties share a residence and living expenses, as long as the parties maintain separate bedrooms.

Fiscal Summary

State Effect: The bill's changes will not materially affect the workload of the Judiciary.

Local Effect: 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 a limited divorce on the following grounds:

- cruelty of treatment of the complaining party or a minor child of the complaining party;
- excessively vicious conduct to the complaining party or to a minor child of the complaining party;
- desertion; or
- voluntary separation, if the parties are living apart without cohabitation and there is no reasonable expectation of reconciliation.

Before granting a limited divorce, the court may require the parties to participate in efforts to achieve reconciliation as prescribed by the court. A divorce may be granted by the court for a limited or an indefinite time. A court that grants a limited divorce may revoke it at any time on the joint application of the parties. If the parties request an absolute divorce and the evidence is sufficient to entitle them to only a limited divorce, the court may grant a limited divorce.

A limited divorce does not sever the marriage, but does grant the injured spouse the right to live separate and apart from the spouse at fault. A limited divorce can also address issues of custody, visitation, child support, alimony, and use and possession of a family home.

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.

Additional Information

Prior Introductions: Similar legislation, SB 578/HB 336 of 2010 received no further action after being heard in the Senate Judicial Proceedings and House Judiciary Committees, respectively.

Cross File: None.

Fiscal Note History: First Reader - February 22, 2011
mm/kdm

Analysis by: Karen D. Morgan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510