

SENATE BILL 472

D4

(5lr1194)

ENROLLED BILL

— Judicial Proceedings/Judiciary —

Introduced by **Senator Zirkin**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Family Law – Grounds for Divorce – Mutual Consent**

3 FOR the purpose of authorizing a court to decree an absolute divorce on the grounds of
4 mutual consent ~~if the parties have executed a written settlement agreement that~~
5 ~~resolves certain contested issues between the parties; requiring the parties to jointly~~
6 ~~file a certain complaint and include a certain affidavit with the complaint in order to~~
7 ~~initiate proceedings for an absolute divorce on the grounds of mutual consent~~ under
8 certain circumstances; authorizing a court to merge or incorporate a certain
9 settlement agreement into a certain divorce decree; authorizing a court to modify or
10 enforce a certain settlement agreement consistent with certain provisions of law; and
11 generally relating to the grounds for an absolute divorce.

12 BY repealing and reenacting, with amendments,

13 Article – Family Law

14 Section 7–103

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.

Italics indicate opposite chamber/conference committee amendments.



1 Annotated Code of Maryland
2 (2012 Replacement Volume and 2014 Supplement)

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

5 **Article – Family Law**

6 7–103.

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

8 (1) adultery;

9 (2) desertion, if:

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

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

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

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

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

18 (ii) served 12 months of the sentence;

19 (4) 12-month separation, when the parties have lived separate and apart
20 without cohabitation for 12 months without interruption before the filing of the application
21 for divorce;

22 (5) insanity if:

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

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

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

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

3 (7) excessively vicious conduct toward the complaining party or a minor
4 child of the complaining party, if there is no reasonable expectation of reconciliation; OR

5 (8) MUTUAL CONSENT, IF:

6 (I) THE PARTIES DO NOT HAVE ANY MINOR CHILDREN IN
7 COMMON;

8 ~~(II) THE PARTIES HAVE EXECUTED EXECUTE AND SUBMIT~~
9 TO THE COURT A WRITTEN SETTLEMENT AGREEMENT SIGNED BY BOTH PARTIES
10 THAT RESOLVES ALL CONTESTED ISSUES BETWEEN THE PARTIES, INCLUDING
11 ISSUES RELATING TO:

12 ~~(I)~~ 1. ALIMONY; AND

13 ~~(II)~~ 2. THE DISTRIBUTION OF PROPERTY, INCLUDING THE
14 RELIEF PROVIDED IN §§ 8-205 AND 8-208 OF THIS ARTICLE; AND

15 ~~(III) 3. THE CARE, CUSTODY, ACCESS, AND SUPPORT OF~~
16 MINOR OR DEPENDENT CHILDREN;

17 ~~(IV) IF THE SETTLEMENT AGREEMENT PROVIDES FOR THE~~
18 PAYMENT OF CHILD SUPPORT, THE PARTIES ATTACH TO THE SETTLEMENT
19 AGREEMENT A COMPLETED CHILD SUPPORT GUIDELINES WORKSHEET;

20 (III) NEITHER PARTY FILES A PLEADING TO SET ASIDE THE
21 SETTLEMENT AGREEMENT PRIOR TO THE DIVORCE HEARING REQUIRED UNDER THE
22 MARYLAND RULES; AND

23 ~~(IV) AFTER REVIEWING THE SETTLEMENT AGREEMENT, THE~~
24 COURT IS SATISFIED THAT ANY TERMS OF THE AGREEMENT RELATING TO MINOR OR
25 DEPENDENT CHILDREN ARE IN THE BEST INTERESTS OF THOSE CHILDREN.

26 (IV) BOTH PARTIES APPEAR BEFORE THE COURT AT THE
27 ABSOLUTE DIVORCE HEARING.

28 (b) Recrimination is not a bar to either party obtaining an absolute divorce on the
29 grounds set forth in subsection (a)(1) through (7) of this section, but is a factor to be
30 considered by the court in a case involving the ground of adultery.

1 (c) Res judicata with respect to another ground under this section is not a bar to
2 either party obtaining an absolute divorce on the ground of 12-month separation.

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

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

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

12 ~~(F) TO INITIATE PROCEEDINGS FOR AN ABSOLUTE DIVORCE ON THE~~
13 ~~GROUND OF MUTUAL CONSENT, THE PARTIES SHALL:~~

14 ~~(1) JOINTLY FILE A COMPLAINT FOR ABSOLUTE DIVORCE; AND~~

15 ~~(2) INCLUDE WITH THE COMPLAINT AN AFFIDAVIT, SIGNED BY BOTH~~
16 ~~PARTIES, EVIDENCING THAT THE PARTIES:~~

17 ~~(I) CONSENT TO THE DIVORCE; AND~~

18 ~~(II) HAVE EXECUTED A WRITTEN SETTLEMENT AGREEMENT~~
19 ~~THAT MEETS THE REQUIREMENTS OF SUBSECTION (A)(8) OF THIS SECTION.~~

20 (F) IF A COURT DECREES AN ABSOLUTE DIVORCE ON THE GROUNDS OF
21 MUTUAL CONSENT UNDER SUBSECTION (A)(8) OF THIS SECTION, THE COURT MAY:

22 (1) MERGE OR INCORPORATE THE SETTLEMENT AGREEMENT INTO
23 THE DIVORCE DECREE; AND

24 (2) MODIFY OR ENFORCE THE SETTLEMENT AGREEMENT
25 CONSISTENT WITH TITLE 8, SUBTITLE 1 OF THIS ARTICLE.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2015.