

Department of Legislative Services  
Maryland General Assembly  
2015 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 472

(Senator Zirkin)

Judicial Proceedings

Judiciary

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Family Law - Grounds for Divorce - Mutual Consent

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This bill authorizes a court to grant an absolute divorce on the ground of mutual consent if specified conditions, including the execution of a settlement agreement, are met. If the court decrees an absolute divorce on the ground of mutual consent, the court may merge or incorporate the settlement agreement into the divorce decree and modify or enforce the settlement agreement as authorized by statutory provisions.

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Fiscal Summary

**State Effect:** Any potential improved operational efficiency for the Judiciary does not materially impact State expenditures.

**Local Effect:** Any potential improved operational efficiency for the circuit courts does not materially impact local government finances.

**Small Business Effect:** None.

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Analysis

**Bill Summary:** A court may grant an absolute divorce on the ground of mutual consent if:

- the parties do not have any minor children in common;
- the parties execute and submit to the court a written settlement agreement signed by both parties that resolves all issues relating to (1) alimony and (2) the distribution of property, including a transfer of ownership of an interest in marital property,

monetary awards, and/or an award of possession and use of the family home and family use personal property;

- neither party files a pleading to set aside the settlement agreement prior to the divorce hearing required under the Maryland Rules; and
- both parties appear before the court at the absolute divorce hearing.

### **Current Law:**

#### *Divorce*

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;
- 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;
- 12-month separation, when the parties have lived separate and apart without cohabitation for 12 months 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.

A court may not enter a decree of divorce on the uncorroborated testimony of the person who is seeking the divorce.

#### *Agreements between Spouses*

Spouses may make a valid and enforceable deed, agreement, or settlement that relates to alimony, support, property rights, or personal rights. The court may modify any provision of a deed, agreement, or settlement with respect to the care, custody, education, or support of any minor child of the spouses, if the modification would be in the best interests of the child. The courts may generally modify any provision of a deed, agreement, or settlement with respect to alimony or spousal support unless there is an express waiver of alimony or spousal support or a provision specifically stating that the provisions with respect to alimony or spousal support are not subject to any court modification. The court may enforce by power of contempt the provisions of a deed, agreement, or settlement that are merged into a divorce decree. The court may enforce by power of contempt or, as an independent contract not superseded by the divorce decree, the provisions of a deed,

agreement, or settlement that contain language that the deed, agreement, or settlement is incorporated but not merged into a divorce decree.

**State/Local Fiscal Effect:** The bill may improve operational efficiency for the circuit courts by providing an expedited method by which spouses can divorce, potentially reducing the number of divorce cases that necessitate protracted litigation. However, any such reduction does not materially impact State or local expenditures for the circuit courts.

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### **Additional Information**

**Prior Introductions:** SB 363 of 2014, a similar bill, passed the Senate as amended and received a hearing in the House Judiciary Committee, but no further action was taken.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - February 26, 2015  
min/kdm Revised - Senate Third Reader - March 27, 2015  
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