

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1368
Judiciary

(Delegates McMillan and Dumais)

Judicial Proceedings

Grounds for Divorce - 12-Month Separation - Oral Amendment to Application
for Divorce

This bill authorizes an oral amendment to a previously filed application for a limited or absolute divorce, that is made by a party with the consent of the other party at a hearing on the merits in open court, to qualify as “the filing of the application for divorce” in statutory provisions regarding an absolute divorce on the ground of a 12-month separation.

Fiscal Summary

State Effect: The bill does not materially impact the workload of the Judiciary.

Local Effect: The bill does not materially impact the workload of the circuit courts.

Small Business Effect: None.

Analysis

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 application for divorce;
- 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 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.

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.

Limited Divorce

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
- separation, if the parties are living separate and apart without cohabitation.

A limited divorce does not sever the marriage but does grant the complaining party the right to live separate and apart from the other spouse. A limited divorce can also address

issues of custody, visitation, child support, alimony, and use and possession of a family home.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - March 7, 2018
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