

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 402
Judiciary

(Delegate Atterbeary)

Judicial Proceedings

Family Law - Grounds for Divorce

This bill alters the conditions that determine separation for the purpose of a court granting an absolute divorce. It repeals requirements that the parties live separate and apart without cohabitation and authorizes a court to grant an absolute divorce on the ground of “separation of affection” if the parties have not engaged in sexual relations for 12 months without interruption before the filing of the application for divorce.

Fiscal Summary

State Effect: The bill does not materially affect the workload of the Judiciary. The Judiciary can use existing resources to modify any necessary forms.

Local Effect: The bill does not materially affect the workload of 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;
- 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.

Additionally, a court may grant an absolute divorce on the ground of mutual consent if:

- the parties execute and submit to the court a written settlement agreement signed by both parties that resolves all issues relating to (1) alimony; (2) the distribution of property, as specified; and (3) the care, custody, access, and support of minor or dependent children;
- the parties attach to the settlement agreement a completed child support guidelines worksheet if the settlement agreement provides for the payment of child support;
- neither party files a pleading to set aside the settlement agreement prior to the divorce hearing required under the Maryland Rules; and
- after reviewing the settlement agreement, the court is satisfied that any terms relating to minor or dependent children are in the best interests of those children.

Additional Information

Prior Introductions: HB 336 of 2010, a similar bill, received a hearing in the House Judiciary Committee, but no further action was taken. Its cross file, SB 578, received a hearing in the Senate Judicial Proceedings 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 12, 2019
an/kdm Third Reader - March 13, 2019
Revised - Amendment(s) - March 13, 2019

Analysis by: Jennifer K. Botts

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