

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 243
Judiciary

(Delegate Atterbeary)

Judicial Proceedings

Family Law - Grounds for Divorce

This bill alters the grounds for a limited and an absolute divorce. Specifically, for a limited divorce, the bill adds the ground of “irreconcilable differences” if the marriage is irretrievably broken and there is no reasonable expectation of reconciliation. For an absolute divorce, the bill alters the conditions that determine separation by requiring the parties to have lived separate and apart without cohabitation for 6 months (instead of 12 months) without interruption before the filing of the application for divorce. The bill also adds the ground of a “6-month waiting period” if one of the parties has filed for a limited divorce at least 6 months before the filing of the application for divorce. Finally, for absolute divorce on the ground of desertion, the bill alters, from 12 months to 6 months, the time for which the desertion must have continued 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 a limited divorce on the following grounds:

- cruelty of treatment of the complaining party or of 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.

The court may grant a limited divorce for a limited time or for an indefinite time. 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 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 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;
- 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 80 of 2020, as amended, passed the House and was referred to the Senate Judicial Proceedings Committee, but no further action was taken.

Designated Cross File: None.

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

Fiscal Note History: First Reader - January 8, 2021
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