

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 639
 Judiciary

(Delegate Atterbeary)

Judicial Proceedings

Family Law - Grounds for Divorce

This bill repeals the authority of the court to grant a limited divorce and alters numerous grounds for an absolute divorce.

Fiscal Summary

State Effect: General fund expenditures for the Judiciary increase by \$16,600 in FY 2023 only for programming changes. Otherwise, the bill does not materially affect the operations or finances of the Judiciary.

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	16,600	0	0	0	0
Net Effect	(\$16,600)	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

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

Small Business Effect: None.

Analysis

Bill Summary/Current Law:

Limited Divorce

Under 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.

The bill repeals the above provisions.

Absolute Divorce

Under 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.

The bill repeals the authority of a court to grant an absolute divorce based on any of the above grounds. Instead, the bill authorizes a court to grant an absolute divorce on the grounds of (1) six-month separation, if the parties have lived separate and apart for six months without interruption before the filing of the application for divorce; (2) irreconcilable differences based on the reasons stated by the complainant for the permanent termination of the marriage; or (3) permanent legal incapacity of a party based on proof, including competent medical or psychiatric testimony or evidence, that the party permanently lacks the legal capacity to make decisions. The bill specifies that parties who have pursued separate lives must be deemed to have lived separate and apart for purposes of the ground of six-month separation even if the parties reside under the same roof or the separation is in accordance with a court order.

Under current law, a court may also 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.

The bill does not alter provisions regarding an absolute divorce based on the ground of mutual consent.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

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

Fiscal Note History: First Reader - February 14, 2022
js/lgc Third Reader - March 16, 2022

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