

# SENATE BILL 36

D4  
HB 639/22 – JUD

(PRE-FILED)

3lr0668  
CF HB 14

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By: **Senator West**

Requested: November 1, 2022

Introduced and read first time: January 11, 2023

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Grounds for Divorce**

3 FOR the purpose of repealing the authority of a court to decree a limited divorce; altering  
4 certain grounds for an absolute divorce; and generally relating to divorce.

5 BY repealing

6 Article – Family Law

7 Section 7–102

8 Annotated Code of Maryland

9 (2019 Replacement Volume and 2022 Supplement)

10 BY repealing and reenacting, with amendments,

11 Article – Family Law

12 Section 7–103

13 Annotated Code of Maryland

14 (2019 Replacement Volume and 2022 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

16 That the Laws of Maryland read as follows:

17 **Article – Family Law**

18 **[7–102.**

19 (a) The court may decree a limited divorce on the following grounds:

20 (1) cruelty of treatment of the complaining party or of a minor child of the  
21 complaining party;

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           (2)   excessively vicious conduct to the complaining party or to a minor child  
2 of the complaining party;

3           (3)   desertion; or

4           (4)   separation, if the parties are living separate and apart without  
5 cohabitation.

6           (b)   The court may decree a divorce under this section for a limited time or for an  
7 indefinite time.

8           (c)   The court that granted a decree of limited divorce may revoke the decree at  
9 any time on the joint application of the parties.

10          (d)   If an absolute divorce is prayed and the evidence is sufficient to entitle the  
11 parties to a limited divorce, but not to an absolute divorce, the court may decree a limited  
12 divorce.]

13 7–103.

14          (a)   The court may decree an absolute divorce on the following grounds:

15                [(1)   adultery;

16                (2)   desertion, if:

17                       (i)   the desertion has continued for 12 months without interruption  
18 before the filing of the application for divorce;

19                       (ii)   the desertion is deliberate and final; and

20                       (iii)   there is no reasonable expectation of reconciliation;

21                (3)   conviction of a felony or misdemeanor in any state or in any court of the  
22 United States if before the filing of the application for divorce the defendant has:

23                       (i)   been sentenced to serve at least 3 years or an indeterminate  
24 sentence in a penal institution; and

25                       (ii)   served 12 months of the sentence;

26                (4)   12–month separation, when parties have lived separate and apart  
27 without cohabitation for 12 months without interruption before the filing of the application  
28 for divorce;

29                (5)   insanity if:

1 (i) the insane spouse has been confined in a mental institution,  
2 hospital, or other similar institution for at least 3 years before the filing of the application  
3 for divorce;

4 (ii) the court determines from the testimony of at least 2 physicians  
5 who are competent in psychiatry that the insanity is incurable and there is no hope of  
6 recovery; and

7 (iii) 1 of the parties has been a resident of this State for at least 2  
8 years before the filing of the application for divorce;

9 (6) cruelty of treatment toward the complaining party or a minor child of  
10 the complaining party, if there is no reasonable expectation of reconciliation;

11 (7) excessively vicious conduct toward the complaining party or a minor  
12 child of the complaining party, if there is no reasonable expectation of reconciliation; or]

13 **(1) 6-MONTH SEPARATION, IF THE PARTIES HAVE LIVED SEPARATE**  
14 **AND APART FOR 6 MONTHS WITHOUT INTERRUPTION BEFORE THE FILING OF THE**  
15 **APPLICATION FOR DIVORCE;**

16 **(2) IRRECONCILABLE DIFFERENCES BASED ON THE REASONS STATED**  
17 **BY THE COMPLAINANT FOR THE PERMANENT TERMINATION OF THE MARRIAGE;**

18 **(3) PERMANENT LEGAL INCAPACITY OF A PARTY BASED ON PROOF,**  
19 **INCLUDING COMPETENT MEDICAL OR PSYCHIATRIC TESTIMONY OR EVIDENCE,**  
20 **THAT THE PARTY PERMANENTLY LACKS THE LEGAL CAPACITY TO MAKE DECISIONS;**  
21 **OR**

22 ~~[(8)]~~ (4) mutual consent, if:

23 (i) the parties execute and submit to the court a written settlement  
24 agreement signed by both parties that resolves all issues relating to:

25 1. alimony;

26 2. the distribution of property, including the relief provided  
27 in §§ 8–205 and 8–208 of this article; and

28 3. the care, custody, access, and support of minor or  
29 dependent children;

30 (ii) the parties attach to the settlement agreement a completed child  
31 support guidelines worksheet if the settlement agreement provides for the payment of child  
32 support;

1 (iii) neither party files a pleading to set aside the settlement  
2 agreement prior to the divorce hearing required under the Maryland Rules; and

3 (iv) after reviewing the settlement agreement, the court is satisfied  
4 that any terms of the agreement relating to minor or dependent children are in the best  
5 interests of those children.

6 **(B) PARTIES WHO HAVE PURSUED SEPARATE LIVES SHALL BE DEEMED TO**  
7 **HAVE LIVED SEPARATE AND APART FOR PURPOSES OF SUBSECTION (A)(1) OF THIS**  
8 **SECTION EVEN IF:**

9 **(1) THE PARTIES RESIDE UNDER THE SAME ROOF; OR**

10 **(2) THE SEPARATION IS IN ACCORDANCE WITH A COURT ORDER.**

11 **[(b)] (C)** Recrimination is not a bar to either party obtaining an absolute divorce  
12 on the grounds set forth in subsection (a)(1) through **[(7)] (4)** of this section[, but is a factor  
13 to be considered by the court in a case involving the ground of adultery].

14 **[(c)] (D)** Res judicata with respect to another ground under this section is not a  
15 bar to either party obtaining an absolute divorce on the ground of **[12-month] 6-MONTH**  
16 separation.

17 **[(d)]** Condonation is not an absolute bar to a decree of an absolute divorce on the  
18 ground of adultery, but is a factor to be considered by the court in determining whether the  
19 divorce should be decreed.

20 (e) (1) A court may decree an absolute divorce even if a party has obtained a  
21 limited divorce.

22 (2) If a party obtained a limited divorce on the ground of desertion that at  
23 the time of the decree did not meet the requirements of subsection (a)(2) of this section, the  
24 party may obtain an absolute divorce on the ground of desertion when the desertion meets  
25 the requirements of subsection (a)(2) of this section.]

26 **[(f)] (E)** If a court decrees an absolute divorce on the grounds of mutual consent  
27 under subsection **[(a)(8)] (A)(4)** of this section, the court may:

28 (1) merge or incorporate the settlement agreement into the divorce decree;  
29 and

30 (2) modify or enforce the settlement agreement consistent with Title 8,  
31 Subtitle 1 of this article.

32 **[(g)] (F)** For purposes of subsection **[(a)(4)] (A)(1)** of this section, the “filing of  
33 the application for divorce” includes an oral amendment made by a party with the consent

1 of the other party at a hearing on the merits in open court to a previously filed application  
2 for limited **DIVORCE FILED BEFORE OCTOBER 1, 2023**, or absolute divorce.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 October 1, 2023.