

Chapter 645

**(Senate Bill 36)**

AN ACT concerning

**Family Law – Grounds for Divorce**

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

BY repealing

Article – Family Law

Section 7–102

Annotated Code of Maryland

(2019 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,

Article – Family Law

Section 7–103

Annotated Code of Maryland

(2019 Replacement Volume and 2022 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
That the Laws of Maryland read as follows:

**Article – Family Law**

[7–102.

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

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

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

(3) desertion; or

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

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

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

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

7–103.

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

[(1) adultery;

(2) desertion, if:

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

(ii) the desertion is deliberate and final; and

(iii) there is no reasonable expectation of reconciliation;

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

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

(ii) served 12 months of the sentence;

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

(5) insanity if:

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

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

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

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

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

**(1) 6-MONTH SEPARATION, IF THE PARTIES HAVE LIVED SEPARATE AND APART FOR 6 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;**

~~**(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; OR**~~

**[(8)] ~~(4)~~ (3)** mutual consent, if:

(i) 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, including the relief provided in §§ 8-205 and 8-208 of this article; and
3. the care, custody, access, and support of minor or dependent children;

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

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

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

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

- (1) THE PARTIES RESIDE UNDER THE SAME ROOF; OR**
- (2) THE SEPARATION IS IN ACCORDANCE WITH A COURT ORDER.**

**[(b) (C)]** Recrimination is not a bar to either party obtaining an absolute divorce on the grounds set forth in subsection (a)(1) through **[(7)] ~~(4)~~ (3)** of this section[, but is a factor to be considered by the court in a case involving the ground of adultery].

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

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

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

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

**[(f) (E)]** If a court decrees an absolute divorce on the grounds of mutual consent under subsection **[(a)(8)] ~~(A)(4)~~ (A)(3)** of this section, the court may:

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

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

**[(g) (F)]** For purposes of subsection **[(a)(4)] (A)(1)** of this section, the “filing of the application for divorce” includes an oral amendment made by a party with the consent of the other party at a hearing on the merits in open court to a previously filed application for limited **DIVORCE FILED BEFORE OCTOBER 1, 2023**, or absolute divorce.

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

**Approved by the Governor, May 16, 2023.**