

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 536
Divorce and Annulment – Removal of Barriers to Remarriage
DATE: February 6, 2020
(2/18)
POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 536. This bill applies only to a marriage solemnized by an official of a religious order or body, authorized by the rules and customs of that order or body, to perform a marriage ceremony. It requires any party covered by the bill, who files a complaint for an absolute divorce or annulment, to file an affidavit that they have taken, or will have taken before the entry of judgment, all steps within their control to remove all barriers to remarriage by the other party or stating the other party waived in writing the submission of the prescribed affidavit.

If said request is made, the court may not enter a final judgment of divorce or annulment unless the other party files said prescribed affidavit. In addition, a court may not also enter a final judgment of divorce or annulment if the individual who solemnized the marriage certifies in an affidavit that they solemnized the marriage and a party to the marriage failed to remove a barrier to remarriage of the other party.

This bill also provides that it may not be construed to authorize a court to inquire into or determine any ecclesiastic or religious issue. This is inconsistent with the notion that the court is prohibited from granting a final judgment of divorce or annulment if a party has taken all steps to remove all barriers to remarriage that may be caused by an ecclesiastic or religious affiliation.

In addition, this bill presents constitutional concerns as it involves the court in religious restrictions relating to divorce and remarriage that are not appropriate for the court to consider and over which the court has no control. Courts should not be entangled in religious barriers to remarriage. Courts also should not delay the final determination of marital property, alimony, use and possession, and other matters associated with the final divorce based upon religious or ecclesiastic barriers to remarriage that the court has no authority to resolve.

cc. Hon. Cheryl Kagan
Judicial Council
Legislative Committee
Kelley O'Connor