

TestimonyforJPR - HB243 - Family Law - Grounds.pdf

Uploaded by: Glickman, Ilene

Position: FAV

To: Members of The Senate Judicial Proceedings Committee

From: Family & Juvenile Law Section Council (FJLSC)
by Ilene Glickman, Esquire and Daniel Renart, Esquire

Date: March 17, 2021

Subject: **House Bill 243:**
Family Law – Grounds

Position: **SUPPORT**

The Maryland State Bar Association (MSBA) FJLSC **supports House Bill 243 – Family Law - Grounds.**

This testimony is submitted on behalf of the Family and Juvenile Law Section Council (“FJLSC”) of the Maryland State Bar Association (“MSBA”). The FJLSC is the formal representative of the Family and Juvenile Law Section of the MSBA, which promotes the objectives of the MSBA by improving the administration of justice in the field of family and juvenile law and, at the same time, tries to bring together the members of the MSBA who are concerned with family and juvenile laws and in reforms and improvements in such laws through legislation or otherwise. The FJLSC is charged with the general supervision and control of the affairs of the Section and authorized to act for the Section in any way in which the Section itself could act. The Section has over 1,200 attorney members.

Under current law, absent a comprehensive agreement (mutual consent set forth in Md. Fam Law §7-103(8)) except in the case of adultery (Md. Fam. Law §7-103(1)), cruelty of treatment (Md. Fam. Law §7-103(6)) and excessive vicious conduct (Md. Fam Law §7-103(7)), married persons residing together cannot obtain an absolute divorce. The grounds of 12-month separation (Md. Fam. Law §7-103(4) and desertion (Md. Fam Law §7-103(2)) require a 12 month physical separation. Similarly, except in very limited circumstances, married persons residing together cannot obtain a limited divorce. Many Marylanders simple do not have the financial resources to establish two homes. Thus under current law too many Maryland citizens are forced to remain in marriages that are effectively over. Such persons are not able to receive much needed relief. House Bill 243 corrects this by adding to the grounds for limited divorce, “Irreconcilable Differences”. The bill also reduced the separation period for a divorce based on the separation

from 2 months to 6 months and allows for a person who filed for a limited divorce based on irreconcilable differences after a 6 month waiting period.

The FJLSC supports this bill for the following reasons:

1. The bill provides needed relief to the too many Maryland citizens forced to remain in marriages that are effectively over but for financial or other reasons are not able to physically separate and reside in two separate homes.
2. Many other states do not require a waiting period or physical separation in order to be divorced.
3. The bill addresses the concerns raised by FJLSC raised in response to HB 80 as initially introduced in 2020.

For the reason(s) stated above, the MSBA FJLSC **supports House Bill 243 and urges a favorable committee report.**

Should you have any questions, please contact Michelle Smith, Esquire by e-mail at msmith@lawannaplois.com or by telephone at (410) 280-1700 OR Ilene Glickman by e-mail at ilene@lawhj.com or by telephone at (410) 821-8718 or

HB0243_SMD.pdf

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Position: FAV



March 19, 2021

The Honorable Luke Clippinger
Judiciary Committee
Room 101, House Office Building
Annapolis, MD 21401-1991

Re: *SUPPORT* HB0243 Family Law - Grounds for Divorce

Chairman and Members of the Committee:

Secular Maryland favors, and encourages, passage of this bill which adds an “irreconcilable differences” justification with a six month waiting period for divorce. There is no secular state interest that is sufficiently compelling to force people who are married to remain married against their will when their marriage has become dysfunctional and there appears to be little realistic prospect of it improving.

Some religions consider divorce and remarriage to be “evils”. They may declare adultery to be the only scripturally justifiable grounds for divorce while permanently denying church membership to anyone guilty of the “sins” of adultery and/or remarriage. Such policies are derived from passages in the Bible such as “Let not the wife depart from her husband...let not the husband put away his wife” (1 Corinthians 7:10-11) and “For the woman which hath an husband is bound by the law to her husband so long as he liveth. . . . So then if, while her husband liveth, she be married to another man, she shall be called an adulteress” (Romans 7:2-3). Other religions take no position on divorce or consider marriage to always be voluntary. Our government should refrain from taking sides or otherwise setting policies to match any particular religious perspective.



Secular Maryland

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HB 243 - Family Law - Grounds for Divorce - cross-

Uploaded by: Ruth, Laure

Position: FAV

BILL NO: House Bill 243
TITLE: Family Law – Grounds for Divorce
COMMITTEE: Judicial Proceedings
HEARING DATE: March 17, 2020
POSITION: **SUPPORT**

House Bill 243 would change the definition of separation as a ground for limited or absolute divorce in our state. The Women's Law Center (WLC) supports House Bill 243 would more accurately reflect many peoples' reality and would allow for faster resolution of divorce cases, which would benefit Marylanders.

Currently, the definition of separation is having lived separate and apart without cohabitation for 12 months prior to filing. Cohabitation is generally understood among the family law bar to mean sexual relations. *See Gordon v. Gordon*, 342 Md. 294 (1994) (cohabitation is generally understood as living as man and wife). HB 243 would reduce the period of required separation before someone can file for divorce from 12 months to 6 months. Additionally, HB 243 would make explicit that parties can file for a limited divorce while still living under the same roof¹, and thereafter modify to an absolute divorce, should a party so desire, 6 months after filing for the limited divorce.

The change in HB 243 is helpful for families who are still living under the same roof, usually due to economic issues that prevent establishing a second household, but who seek to divorce on a no-fault separation ground. And, for some people, they can't physically separate into separate abodes until they get assistance and resolution from the court, which under current law leaves them in a limbo state, unable to move towards finality. During this period of time, frustrations can mount. The proposed change will simplify divorce law in Maryland, use commonly understood language, and make it possible for some to seek divorce when before they may or may not have had the ability to do so. And, people in the same circumstances will not get a different result on their ground for divorce depending on what judge or magistrate they appear before.

Therefore, the Women's Law Center of Maryland, Inc. urges a favorable report on House Bill 243.

The Women's Law Center of Maryland is a private, non-profit, membership organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change.

¹ *Ricketts v. Ricketts*, 393 Md. 479 (2006) held that in certain circumstances a party could seek a limited divorce while still residing in the same home as their spouse. Over time, some courts or judges have extended this to absolute divorce as well or otherwise broadened the use of *Ricketts*. This creates an uneven application of *Ricketts*.