

SB 0036 - Grounds for Divorce - written testimony_

Uploaded by: Brett Smoot

Position: FAV



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

January 30, 2023

Senator William C. Smith Jr.
2 East
Miller Senate Office Building
Annapolis, Maryland 21401

**RE: Maryland Legal Aid's Written Testimony in Support of SB 36 – Family Law
Grounds for Divorce**

Dear Chairperson Smith and Committee Members:

Thank you for the opportunity to present testimony in support of SB 36, a bill that will remove barriers for low-income Marylanders to obtain a divorce. The bill accomplishes this by adding new no-fault based divorce grounds and removing all fault-based grounds. Maryland Legal Aid (MLA) is a private, non-profit law firm that provides free legal services to indigent Maryland residents. From 12 offices around the state, MLA helps individuals and families in every Maryland county with many civil legal issues, including housing, consumer, public benefits, and family law matters. MLA also represents abused and neglected children and provides legal assistance to senior citizens and nursing home residents. This letter serves as notice that Brett Smoot, Esq., will testify on behalf of Maryland Legal Aid at the request of Senator West.

MLA represents parties where there is an imbalance in power in a custody, support, access, or divorce matter. As a result, MLA advocates for Marylanders in high conflict, contested matters.

Currently, the only no-fault grounds for divorce are 12-months separation and mutual consent. Thus, if the parties cannot agree and have not been separated for a year, there is no pathway to a no-fault divorce in Maryland.

For MLA clients who are involved in already highly contested family law disputes, beginning the case with fault-based accusations escalates tensions and hinders mutually agreeable settlement negotiations. This exacerbates costs and energy spent on litigation. Opponents are incorrect in the assertion that changing grounds for divorce will impact evidence for relief actions, such as alimony. The grounds for divorce on which a court enters a Judgment of Absolute Divorce have no bearing on the relief available to family law litigants. Maryland alimony law requires the court to consider all factors necessary for a fair and equitable award, including the circumstances that contributed to the estrangement of the parties. Therefore, removing fault-based grounds will not inhibit a party's ability to obtain appropriate relief or prevent the court from considering all relevant facts.

Divorce proceedings allow litigants to resolve important financial aspects of the marriage. Low-income litigants are denied access to this mechanism when it is not financially feasible to pay for two separate households before resolving issues of marital property, child support, spousal support, or use and possession of the family home. Often, it is crushing. The proposed change to section (B), allowing individuals who live under the same roof to still be considered separated for purposes of (A)(1), would benefit MLA clients who often do not have the economic means to support two households at the time of filing. In ensuring that all litigants receive proper notice of proceedings, MLA recommends including a provision to address any service of process issues that may come from litigants residing in the same home. This may easily be addressed by requiring personal service of any original pleadings where litigants reside at the same address.

HB14 will reduce conflict in family law cases while also providing additional grounds for low-income litigants to obtain relief in the family law courts. Thank you for considering this written testimony. **For the reasons stated above, MLA urges a favorable report on HB 14.**

Sincerely

Alice V. Mutter, Esq.
Senior Attorney for Family Law
Maryland Legal Aid
amutter@mdl.org
301-637-1062

SB36 West FAV.pdf

Uploaded by: Christopher West

Position: FAV

CHRIS WEST
Legislative District 42
Baltimore and Carroll Counties

Judicial Proceedings Committee



THE SENATE OF MARYLAND
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January 31st, 2023
Senate Judicial Proceedings Committee
The Honorable William C. Smith Jr.
2 East Miller Senate Building
Annapolis, MD, 21401

Re: Senate Bill – 36 – Family Law – Grounds for Divorce

Dear Chairman Smith and members of the Committee,

Under current law, most spouses applying for divorce must live separate and apart for at least one year. Although there are exceptions for parties to apply for divorce sooner, like cruelty of treatment, excessively vicious conduct, or adultery, many self-represented litigants do not understand how to plead these grounds or how to prove them. For those who have no option other than to proceed on grounds of one-year separation, they must live in separate residences to qualify. This can be onerous for parties who do not have the financial means to afford separate residences or the ability to stay with family members, problems exacerbated by Covid-19.

Senate Bill 36 would simplify the grounds for divorce, allowing parties to obtain a divorce based on having “irreconcilable differences.” In the event the parties cannot prove irreconcilable differences, SB36 would reduce the waiting time for a divorce to six months. Senate Bill 36 also enables parties to obtain a divorce even if they continue to reside in the same house, facilitating the process for low-income parties

It is important that individuals can obtain an expeditious divorce regardless of the circumstances that led to the demise of the marriage. Particularly in cases involving intimate partner violence, a complex and arduous divorce process can place domestic violence victims in ongoing danger and delay their ability to live safe, independent lives.

I appreciate the Committee’s consideration of Senate Bill 36 and will be happy to answer any questions the Committee may have.

SB 36 Family Law Grounds Bill Testimony in Support.

Uploaded by: Daniel Renart

Position: FAV



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To: Members of the Senate Judicial Proceedings Committee

From: Daniel V. Renart, Esquire Partner at Reinstein, Glackin & Herriott, LLC

Date: January 31, 2023

Subject: **SB 36 – Family Law Grounds for Divorce**

Position: **FAVORABLE**

Reinstein, Glackin & Herriott, LLC **supports Senate Bill 36 – Family Law – Grounds for Divorce.**

This testimony is submitted on behalf of Reinstein, Glackin & Herriott, LLC. We are a private law firm with four partners and two associates who exclusively focus our practice representing members of our community in family law matters. I and two of my partners are Fellows with the American Academy of Matrimonial Lawyers. The members of the firm have extensive experience practicing family law in various Maryland Counties, including: Montgomery County, Howard County, Anne Arundel County, Frederick County, Prince George's County, Charles County, Calvert County, St. Mary's County, Talbot County and Queen Anne County. We generally have approximately 180 active and open domestic relations files at any given time and grounds for divorce is something that we deal with on a daily basis.

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 unless they create a physical separation. 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. This framework can and does at times create a stalemate

whereby one of the parties that needs judicial intervention and relief, cannot obtain it and the other party may disregard the other parties efforts to try and address their issue. This level of dysfunction adversely impacts the parties and children living within the home and can be avoided by updating the current framework to focus on other aspects within the family other than fault-based grounds for divorce.

SB 36 restructures Maryland Family Law by eliminating limited divorce, fault-based grounds for divorce and allowing Maryland residents to seek an absolute divorce without having to resort to jumping through various expensive hurdles that eventually lead to the same result, divorce. Currently Marylanders are forced to engage in a protracted divorce system that is convoluted with various fault-based grounds for divorce which can be extraordinarily expensive for Marylanders and the judicial system. This is a gender-neutral bill, meaning that both men and women will both derive equal benefit from SB 36.

Eliminating the fault-based grounds of divorce is a welcomed change that will make the divorce process less taxing on Marylanders and the judiciary. By continuing to foster fault-based grounds for divorce, we allow litigants to focus on placing blame in an effort to skew the equitable balancing that the court engages in in order to grant a monetary award. Removing fault-based grounds for divorce will eliminate the need to attack the opposing party just to ensure that the parties will be divorced at the end of the process. If the litigants are not focusing on fault for the divorce they can focus on their children and other pressing issues that require their attention during a divorce. In our experience, a litigant is rarely granted a disproportionate amount of marital assets or a significant monetary award based on the grounds for divorce, therefore there is little to no benefit that is accorded to most Marylanders from continuing to have fault-based grounds for divorce. Additionally, the judiciary has discretion in choosing which grounds to use in granting a divorce and I cannot think of a single time that the Court elected to hear salacious details about fault-based grounds for divorce when there was an option for a no-fault based ground as an alternative.

From an economic standpoint, the no-fault based grounds for divorce will be better for Marylanders and the judicial system. Not only will litigants not be required to spend a lot of time and energy focusing on grounds for divorce, but the parties will be able to obtain a divorce while they reside in the same residence. SB 36 allows litigants to obtain a divorce without first having to take the step of physically separating for a year before being able to file for divorce. The current structure forces the parties to create two households before they can seek judicial relief. Sometimes this is a cost prohibitive hurdle that forces parties to continue to live together in disharmony without having the ability to seek judicial relief. In my experience, the need to create a physical separation may at times lead some individuals to file domestic violence petitions unnecessarily, in order to force the other spouse out of the home. Doing so would be a misuse of the domestic violence statute and it would constitute a waste of judicial resources. Furthermore, if spouses were permitted to file for divorce without the necessity of creating a physical separation, they would be motivated to reach a settlement agreement so that they can move on with their lives.

Finally, by eliminating the need to litigate over fault-based grounds for divorce, Maryland citizens will be able to reduce expenses in obtaining a divorce. Resources will not be diverted towards proving fault-based grounds; therefore, litigants and the Courts stand to conserve resources.

SB 36 is a critical step toward streamlining the process by which Maryland citizens initiate divorce proceedings. For the reason(s) stated above, RGH LLC and I **support Senate Bill 36 and urge a favorable committee report.**

Should you have any questions, please contact Daniel V. Renart, Esquire at (301) 383-1525 or drenart@rghlawyers.com.

SB 36 FAV House of Ruth.pdf

Uploaded by: Dorothy Lennig

Position: FAV



Marjorie Cook Foundation
Domestic Violence Legal Clinic

2201 Argonne Drive • Baltimore, Maryland 21218 • 410-554-8463 • dlennig@hruthmd.org

TESTIMONY IN SUPPORT OF SENATE BILL 36

January 31, 2023

DOROTHY J. LENNIG, LEGAL CLINIC DIRECTOR

House of Ruth Maryland is a non-profit organization providing shelter, counseling, and legal services to victims of domestic violence throughout the State of Maryland. The House of Ruth Domestic Violence Legal Clinic has offices in Baltimore City, Prince George's County, Montgomery County, and Baltimore County. Senate Bill 36 would eliminate the current time that most spouses have to wait before being eligible for a divorce and it enables parties to obtain a divorce even if they continue to reside in the same house. **We urge the Senate Judicial Proceedings Committee to issue a favorable report on SB 36.**

Under current law, most spouses who wish to apply for a divorce must live separate and apart for at least one year. Although there are grounds which enable parties to apply for divorce sooner, such as cruelty of treatment, excessively vicious conduct, and adultery, many self-represented litigants do not understand when and how to plead these grounds or how to prove them. For those parties who have no option other than to proceed on grounds of one-year separation, they must live in separate residences to qualify. This can be onerous for parties who do not have the financial means to afford separate residences or the ability to stay with family members.

SB 36 would simplify the grounds for divorce, enabling parties to obtain a divorce based on having "irreconcilable differences." In the event the parties could not prove irreconcilable differences, SB 36 would reduce the waiting time for a divorce to six (6) months. House of Ruth believes it is important that individuals be able to obtain an expeditious divorce regardless of the circumstances that led to the demise of the marriage. Particularly in cases involving intimate partner violence, a complex and drawn out divorce process can place domestic violence victims in ongoing danger and delay their ability to live safe, independent lives.

SB 36 also enables parties to obtain a divorce even if they continue to reside in the same house. As previously mentioned, it can be burdensome, if not impossible, for low income parties to separate their households, leaving them stuck in the marriage under current law. SB 36 will make it possible for parties whose marriage has come to end, but who cannot afford separate living arrangements, to obtain a divorce.

The House of Ruth urges a favorable report on Senate Bill 36.

Itr to senate judiciary SB 26 1-30-23.pdf

Uploaded by: Howard Soypher

Position: FAV



WEBB
SOYPHER
MCGRATH

HOWARD B. SOYPHER
Attorney

January 30, 2023

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Members of the Senate Judicial Proceedings Committee

Re: **Senate Bill 36**
Family Law – Grounds for Divorce
Favorable

Dear Members of the Committee:

I write in support of the above-referenced Bill.

By way of background, I have been a practicing attorney in Maryland for over 26 years. My practice has been focused primarily in the area of family law for the past 23 of those years. Geographically, my practice is based in Montgomery County, Frederick County and Washington, D.C. I am a Fellow in both the American Academy of Matrimonial Lawyers and the American College of Trial Lawyers.

As a family law practitioner, a common occurrence is the scenario in which the parties are clearly no longer living as spouses but continue to physically live under the same roof because of either: (a) lack of financial resources for one party to leave the home and obtain new housing; and/or (b) a refusal/desire not to leave the house without an enforceable agreement as to when and how often the departing spouse will be able to see his/her children following the separation. Quite often, these scenarios are coupled with a refusal of one party to engage in negotiations to separate and address custody and/or financial matters. Usually, the party that wishes to leave does not have independent access to adequate financial resources to obtain her/his own residence (e.g., deposit, first and last month's rent and ongoing expenses). Under current Maryland law, unless that party has a good faith basis to allege one of the more limited grounds for divorce (e.g., adultery, cruelty or excessively vicious conduct), that party is unable to initiate a legal proceeding for divorce in the absence of their spouse voluntarily engaging in good faith negotiations.

I have observed over the past 25 years, this type of stalemate frequently leading to disastrous circumstances for both the parties and any children living in the home. One such circumstance is domestic violence. By having a legal framework that essentially does not allow parties residing under the same roof to have access to the family law courts, two parties who have had their share of arguments and acrimony are, in all practical terms, forced to continue to reside together. The likelihood of such hostilities escalating into domestic violence is high and places everyone in danger. If the parties were not residing together and constantly in each other's presence, there



would be far less of an opportunity for acrimony to lead to heat of the moment violence. A second problematic scenario that often arises in these circumstances, is the fabrication of allegations of domestic violence by one party against the other where no such threat or violence has actually occurred. If a party knows that he/she cannot force their spouse out of a jointly-titled home absent being removed pursuant to the issuance of a protective order, a desperate spouse may completely fabricate an allegation of domestic violence with the hope that it will cause their spouse to be removed from the home, create a separation and allow that spouse to commence an action for divorce (custody, support, etc.). Such false allegations of abuse cause unnecessary harm and pain to the parents and children involved.

In contrast to the laws of Maryland, the divorce laws in the District of Columbia contain provisions that greatly reduce the likelihood of the occurrence of the aforementioned scenarios. The District of Columbia divorce statute does not contain any fault-based grounds, with such grounds having been abolished statutorily many years ago. Essentially, the grounds for divorce in D.C. are a mutual and voluntary separation, without cohabitation, for a period of 6 months or a separation without cohabitation for a period of 12 months (irrespective of whether that separation was mutual and voluntary).¹ What is significant about the D.C. statute and of great relevance to SB 36, is the language contained in that statute that reads as follows:

“ . . . parties who have pursued separate lives, sharing neither bed nor board, shall be deemed to have lived separate and apart from one another even though: (1) they reside under the same roof; or (2) the separation is pursuant to an order of court.”

By allowing parties who technically reside under the same roof to be deemed to be living separate and apart, the D.C. statute provides a pathway to accessing judicial resources where the Maryland divorce statute currently does not. Accordingly, for a person living in D.C. who has essentially lived separately from his/her spouse, but continues to technically live under the same roof (often one spouse resides in the marital bedroom and the other lives in a guest room or basement), he/she is able to commence a divorce proceeding and access judicial remedies, including, seeking access to marital funds and/or the receipt of temporary support, that would provide the financial means to allow that person to move out of the home. For the person who has financial resources, but whose concern stems from not wanting to move from the home without securing custodial rights to spend time with minor children, that person has access to the judicial system to obtain a custody order (or at least a temporary custody order) allowing him/her to move out of the home and have an enforceable schedule as to when he/she will have time with the children and not be left to the whims of the parent who remained in the home with the children.

¹ District of Columbia Annotated Code, Section 16-904.



As practitioner whose office is located in Bethesda, the legal advice that I can provide my clients whose reside in Maryland is quite different than I can provide to those clients who are residents of the District of Columbia. The D.C. clients are able to access their family law-related rights under the judicial system much more readily those who reside in Maryland.

SB 36 would amend the Annotated Code of Maryland, Family Law Article, Section 7-103 by modifying the grounds for absolute divorce to include a 6-month period of living separate and apart without interruption and, most significantly, inclusion of the following language to a define the term of living “separate and apart”:

“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.”**

The enactment of these statutory changes would provide Maryland residents with the same rights outlined above for D.C. residents. It would eliminate the scenario in which one is trapped in his/her marriage and as a virtual prisoner in his/her home because of a lack of technical statutory ground to file an action for divorce and access the rights afforded by our judicial system.

I also look favorably at SB 36 as, not only does it allow parties to be deemed as living separate and apart while residing under the same roof, but it also includes an additional, alternative proposed ground for granting an absolute divorce – **“irreconcilable differences based on the reasons stated by the complainant for the permanent termination of the marriage.”** Again, just like the additional amendments to the statute discussed above, this ground would allow one to gain access to the judicial system while still living under the same roof as their spouse, but under this scenario, without having to wait for a period of 6 months or other specified duration. The inclusion such language would create the desired benefit of allowing married persons access to the judicial system while they are effectively forced to remain in their homes with their spouse due to a lack of access to financial resources or out of concern of not being able to see their children if they move from the home.

Both of these proposed amendments to the statute will best serve Maryland families.



WEBB
SOYPHER
MCGRATH

Senate Judicial Proceedings Committee
January 30, 2023
Page 4

Thank you for your consideration.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'H. Soypher'.

Howard B. Soypher

SB 36 - FAV - Women's Law Center of MD.pdf

Uploaded by: Laure Ruth

Position: FAV

BILL NO: Senate Bill 36
TITLE: Family Law – Grounds for Divorce
COMMITTEE: Judicial Proceedings
HEARING DATE: January 31, 2023
POSITION: **SUPPORT**

Senate Bill 36 would provide the overdue and much needed update to grounds for divorce in Maryland. The Women’s Law Center (WLC) supports Senate Bill 36 as it would more accurately reflect many peoples’ reality and would allow for faster resolution of divorce cases, which would benefit Marylanders.

Currently, in Maryland there are two types of divorce, limited and absolute. Limited divorce is most often used as a strategy to get into court when grounds for absolute divorce are not able to be pled. SB 36 would eliminate limited divorce all together and would update the grounds for absolute divorce. The number of cases that actually resolve after a limited divorce are very, very small. Even the courts are aware that limited divorce is not the end game in the virtually all cases pleading for a limited divorce. This is reflected in the courts’ Differentiated Case Management plans (DCMs), which ironically have a much longer resolution period for limited than absolute divorce cases, two years versus one year – virtually every single limited divorce case goes on to become absolute divorce. It is almost entirely used as steppingstone to absolute divorce.

SB 36 would clean up long outdated grounds for absolute divorce in Maryland and offer a simpler path forward for Maryland citizens who want to divorce. There is no public policy reason existing today that requires the grounds for divorce to create a long and drawn out system before finality can be reached and a new way forward can begin. Our existing grounds for divorce are a relic of the past. Perhaps the best part of SB 36 is the creation of a way to stay in the same household while still moving towards divorce. We already do this in the “mutual consent to divorce” ground that was created several years ago, thankfully, and society has not crashed and burned because of it. SB 36 would also allow for divorce after a separation of 6 months, rather than 12, and defines that separation can occur despite the parties still living in the same house, if certain facts are proven, This is many Maryland citizens’ economic and other reality, and the law should reflect that.

For families who cannot reach agreement between themselves and thus use the “mutual consent to divorce” ground, SB 36 would allow them to access the resources the court provides, assisting them to resolve issues and move forward. This is especially important in cases where there is an uneven power dynamic, such as cases where there has been intimate partner violence or a power and control dynamic. If the party cannot prove “irreconcilable differences” (a ground used in many other states), they can still move forward 6 months after separation (as defined in the bill) occurs. And they can still use “mutual consent to divorce” if they are able to come to an agreement.

There have been small, incremental efforts over the years to update our grounds for divorce, but SB 36 is a true necessity in family law in Maryland today.

Therefore, the Women’s Law Center of Maryland, Inc. urges a favorable report on Senate Bill 36.

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.

SB 36_MNADV_FAV.pdf

Uploaded by: Melanie Shapiro

Position: FAV



BILL NO: Senate Bill 36
TITLE: Family Law - Grounds for Divorce
COMMITTEE: Judiciary
HEARING DATE: January 31, 2023
POSITION: **SUPPORT**

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the House Judiciary Committee to issue a favorable report on SB 36.**

Senate Bill 36 revises and simplifies the existing grounds for divorce to enable parties to obtain a divorce on the grounds that they have lived separate and apart for 6 months, have irreconcilable differences, or on the grounds of permanent legal incapacity. MNADV supports SB 36 because parties who wish to be able to divorce should be able to do so expeditiously. For cases involving domestic violence this will enable a victim to divorce more easily and enables them to begin the process of establishing a new life apart from their abuser and hopefully achieve safety.

Senate Bill 36 also allows parties to reside together while going through the divorce process. Living separate and apart is not feasible for many parties, especially lower income parties. Many victims of domestic violence lack the financial resources to live separately. This change in law will allow those that seek to divorce a pathway to do so and not be prevented by a lack of financial resources.

For the above stated reasons, the **Maryland Network Against Domestic Violence urges a favorable report on SB 36.**

SB 36_FJLSC_fav.pdf

Uploaded by: Michelle Smith

Position: FAV

To: Members of The Senate Judicial Proceedings Committee

From: Family & Juvenile Law Section Council (FJLSC)

Date: January 31, 2023

Subject: Senate Bill 36:
Family Law – Grounds for Divorce

Position: FAVORABLE

The Maryland State Bar Association (MSBA) FJLSC **supports Senate Bill 36 – Family Law – Grounds for Divorce.**

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 irretrievably broken. Many Maryland family law practitioners have shared stories of the harm to clients and their families as a result of the inability to access the Courts for much needed relief as

a result of the waiting period/physical separation requirement. This Bill offers welcome relief for Maryland families and family law practitioners. Senate Bill 36 would allow married persons to obtain an absolute divorce more expeditiously and with less financial repercussions. Proposed changes to §7-102 eliminate the rarely used and often confusing version of “limited” divorce and §7-103 authorizes an absolute divorce in the following circumstances:

1. after a 6-month separation if the parties have lived separate and apart for 6 months without interruption;
2. upon the allegation of one party that there are irreconcilable differences between the parties upon which the marriage should be terminated;
3. the permanent legal incapacity of one party;
4. mutual consent if the parties have submitted a written agreement resolving all issues related to alimony, distribution of property, custody and child support for minor children

Only the first two grounds for divorce are new in this legislation. To further codify case law which has developed over the years to clarify the concept of living “separate and apart”, section (B) of SB 36 makes it clear that even parties living under the same roof can be deemed, by a Judge, to have pursued separate lives and met the requirement to live separate and apart related to the 6 month separation ground.

These changes to the Divorce Grounds law will bring Maryland in line with many other states which allow for divorces based on irreconcilable differences or the irretrievable breakdown of a marriage as opposed to specific “fault” grounds such as adultery or cruelty of treatment. This will simply allow more persons in unhappy marriages immediate access to the court to begin the process of dissolving their marriages. In cases in which the facts regarding “fault” for the breakdown of the marriage bond are relevant to such claims as custody, alimony or monetary awards, those litigants will still be quite able to plead and argue those facts to the Court throughout the process.

SB 36 is a critical step toward streamlining the process by which Maryland citizens initiate divorce proceedings. For the reason(s) stated above, the MSBA FJLSC **supports Senate Bill 36 and urges a favorable committee report.**

Should you have any questions, please contact Michelle Smith at 410-280-1700 or msmith@lawannapolis.com.

testimony 5.pdf

Uploaded by: stephanie westby

Position: FAV

I don't want to share my story today.

But I need to do everything I can to compel you- in fact, to beg you- to change this law.

Because people need agency over their own lives...
including who they marry, and whether they STAY married.
It is a basic human right.

My husband has never contributed financially to the household. He lives in the basement of the house, barely speaks to me, and barely parents the children.

I've been through several long, difficult rounds of marriage counselling, plus my own, separate mental health counselling to try to deal with this.

And, after years of that, in 2019 I made the gut-wrenching decision that I needed to end the marriage.

My husband refused to even discuss divorce.

So I consulted a lawyer. And I cried through the whole meeting—at \$360 an hour.
Because she advised me to take the kids and flee. If my husband wouldn't leave the house, I needed to 'establish separation', so I would have 'grounds for divorce'.

And the only way to do that was to leave the home.

- The home that *I alone* paid the mortgage on
- The house that, when it needed a new roof, *I* got three estimates, *I* hired the contractor, *I* financed the work, and *I* paid it off over the next three years.
- The only home my children had ever known

I was to keep paying for that house—and find and fund a second residence for me and the kids. Which would also mean I'd given up 'use and possession' of the home, meaning I'd be unlikely to ever get back into it.

So, this was not really a choice. Not for a mother who has any regard for the emotional and financial wellbeing of her children or herself.

I thought:

- This CAN'T be right. I'm misunderstanding. There is a communication issue with my lawyer. There is a lot of emotion here. This can't be right.

So I hired a second lawyer,
and a third lawyer-
they told me the same thing.

It was surreal. It was that nightmare of running from person to person, desperate for an escape... and no one can help you.

Since 2019, I've been held hostage in a marriage that I no longer consent to. And I've spent \$10,000 in legal fees.

I can't possibly... describe... the level of stress, the loneliness, the isolation.

The institutionalized gas lighting of having the State say:

- if your husband hit you, or cheated on you... we recognize those the kinds of pain.
- But YOUR kind of pain? We refuse to recognize that. It does not count. You have to stay.
- Unless your husband grants you a divorce.

This isn't medieval Europe.

Or Syria. This isn't even Idaho.

There are people who desperately need to be emancipated from their marriages.

Thank you.