



**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

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