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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**

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**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](mailto:drenart@rghlawyers.com).