

---

**To:** Members of House Judiciary Committee

**From:** Family & Juvenile Law Section Council (FJLSC)

**Date:** January 26, 2023

**Subject:** **House Bill 14:**  
Family Law – Grounds for Divorce

**Position:** **FAVORABLE**

---

The Maryland State Bar Association (MHBA) FJLSC **supports House Bill 14 – 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 (“MHBA”). The FJLSC is the formal representative of the Family and Juvenile Law Section of the MHBA, which promotes the objectives of the MHBA 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 MHBA 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. House Bill 14 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 revised §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
3. the permanent legal incapacity of one party
4. mutual consent if the parties have submitted a written agreement resolving all issues

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 HB14 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 six-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 is relevant to such claims as custody, alimony or monetary awards will still be quite able to plead and argue those facts to the Court throughout the process.

HB 14 is a critical step toward streamlining the process by which Maryland citizens initiate divorce proceedings. For the reason(s) stated above, the MHBA FJLSC **supports House Bill 14 and urges a favorable committee report.**

Should you have any questions, please contact Michelle Smith at 410-280-1700 or [msmith@lawannapolis.com](mailto:msmith@lawannapolis.com).