

HOUSE BILL 403

D4

1lr1423

By: **Delegates Simmons and Kramer**

Introduced and read first time: February 4, 2011

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Grounds for Divorce**

3 FOR the purpose of providing that for purposes of granting a limited or absolute
4 divorce, parties shall be considered to be living separate and apart without
5 cohabitation even if the parties share a residence and living expenses as long as
6 the parties maintain separate bedrooms; and generally relating to the grounds
7 for a limited or absolute divorce.

8 BY repealing and reenacting, with amendments,
9 Article – Family Law
10 Section 7–102 and 7–103
11 Annotated Code of Maryland
12 (2006 Replacement Volume and 2010 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article – Family Law**

16 7–102.

17 (a) The court may decree a limited divorce on the following grounds:

18 (1) cruelty of treatment of the complaining party or of a minor child of
19 the complaining party;

20 (2) excessively vicious conduct to the complaining party or to a minor
21 child of the complaining party;

22 (3) desertion; or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (4) voluntary separation, if:

2 (i) the parties are living separate and apart without
3 cohabitation **IN ACCORDANCE WITH SUBSECTION (F) OF THIS SECTION**; and

4 (ii) there is no reasonable expectation of reconciliation.

5 (b) As a condition precedent to granting a decree of limited divorce, the court
6 may:

7 (1) require the parties to participate in good faith in the efforts to
8 achieve reconciliation that the court prescribes; and

9 (2) assess the costs of any efforts to achieve reconciliation that the
10 court prescribes.

11 (c) The court may decree a divorce under this section for a limited time or for
12 an indefinite time.

13 (d) The court that granted a decree of limited divorce may revoke the decree
14 at any time on the joint application of the parties.

15 (e) If an absolute divorce is prayed and the evidence is sufficient to entitle
16 the parties to a limited divorce, but not to an absolute divorce, the court may decree a
17 limited divorce.

18 **(F) FOR PURPOSES OF SUBSECTION (A)(4) OF THIS SECTION, THE**
19 **PARTIES SHALL BE CONSIDERED TO BE LIVING SEPARATE AND APART WITHOUT**
20 **COHABITATION EVEN IF THE PARTIES SHARE A RESIDENCE AND LIVING**
21 **EXPENSES AS LONG AS THE PARTIES MAINTAIN SEPARATE BEDROOMS.**

22 7-103.

23 (a) The court may decree an absolute divorce on the following grounds:

24 (1) adultery;

25 (2) desertion, if:

26 (i) the desertion has continued for 12 months without
27 interruption before the filing of the application for divorce;

28 (ii) the desertion is deliberate and final; and

29 (iii) there is no reasonable expectation of reconciliation;

30 (3) voluntary separation, if:

1 (i) the parties voluntarily have lived separate and apart
2 without cohabitation, **IN ACCORDANCE WITH SUBSECTION (F) OF THIS SECTION,**
3 for 12 months without interruption before the filing of the application for divorce; and

4 (ii) there is no reasonable expectation of reconciliation;

5 (4) conviction of a felony or misdemeanor in any state or in any court
6 of the United States if before the filing of the application for divorce the defendant has:

7 (i) been sentenced to serve at least 3 years or an indeterminate
8 sentence in a penal institution; and

9 (ii) served 12 months of the sentence;

10 (5) 2-year separation, when the parties have lived separate and apart
11 without cohabitation for 2 years without interruption before the filing of the
12 application for divorce;

13 (6) insanity if:

14 (i) the insane spouse has been confined in a mental institution,
15 hospital, or other similar institution for at least 3 years before the filing of the
16 application for divorce;

17 (ii) the court determines from the testimony of at least 2
18 physicians who are competent in psychiatry that the insanity is incurable and there is
19 no hope of recovery; and

20 (iii) 1 of the parties has been a resident of this State for at least
21 2 years before the filing of the application for divorce;

22 (7) cruelty of treatment toward the complaining party or a minor child
23 of the complaining party, if there is no reasonable expectation of reconciliation; or

24 (8) excessively vicious conduct toward the complaining party or a
25 minor child of the complaining party, if there is no reasonable expectation of
26 reconciliation.

27 (b) Recrimination is not a bar to either party obtaining an absolute divorce
28 on the grounds set forth in subsection (a)(1) through (8) of this section, but is a factor
29 to be considered by the court in a case involving the ground of adultery.

30 (c) Res judicata with respect to another ground under this section is not a
31 bar to either party obtaining an absolute divorce on the ground of 2-year separation.

1 (d) Condonation is not an absolute bar to a decree of an absolute divorce on
2 the ground of adultery, but is a factor to be considered by the court in determining
3 whether the divorce should be decreed.

4 (e) (1) A court may decree an absolute divorce even if a party has
5 obtained a limited divorce.

6 (2) If a party obtained a limited divorce on the ground of desertion
7 that at the time of the decree did not meet the requirements of subsection (a)(2) of this
8 section, the party may obtain an absolute divorce on the ground of desertion when the
9 desertion meets the requirements of subsection (a)(2) of this section.

10 **(F) FOR PURPOSES OF SUBSECTION (A)(3) OF THIS SECTION, THE**
11 **PARTIES SHALL BE CONSIDERED TO BE LIVING SEPARATE AND APART WITHOUT**
12 **COHABITATION EVEN IF THE PARTIES SHARE A RESIDENCE AND LIVING**
13 **EXPENSES AS LONG AS THE PARTIES MAINTAIN SEPARATE BEDROOMS.**

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2011.