

SENATE BILL 120

D4
SB 358/16 – JPR

8lr0589

By: **Senator Zirkin**

Introduced and read first time: January 11, 2018

Assigned to: Judicial Proceedings

Committee Report: Favorable

Senate action: Adopted

Read second time: January 29, 2018

CHAPTER _____

1 AN ACT concerning

2 **Family Law – Divorce on Grounds of Mutual Consent – Parties With Minor**
3 **Children**

4 FOR the purpose of authorizing a court to decree an absolute divorce on the grounds of
5 mutual consent if the parties have minor children, under certain circumstances;
6 requiring a certain settlement agreement to provide for the care, custody, access, and
7 support of minor or dependent children; requiring certain parties to attach a
8 completed child support guidelines worksheet to a certain settlement agreement;
9 providing that a court may decree an absolute divorce on the grounds of mutual
10 consent only if, after reviewing a certain settlement agreement, the court is satisfied
11 that any terms of the agreement relating to minor or dependent children are in the
12 best interests of those children; and generally relating to the grounds for an absolute
13 divorce.

14 BY repealing and reenacting, with amendments,
15 Article – Family Law
16 Section 7–103(a)
17 Annotated Code of Maryland
18 (2012 Replacement Volume and 2017 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article – Family Law
21 Section 7–103(f)
22 Annotated Code of Maryland
23 (2012 Replacement Volume and 2017 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 **Article – Family Law**

4 7–103.

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

6 (1) adultery;

7 (2) desertion, if:

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

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

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

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

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

16 (ii) served 12 months of the sentence;

17 (4) 12–month separation, when the parties have lived separate and apart
18 without cohabitation for 12 months without interruption before the filing of the application
19 for divorce;

20 (5) insanity if:

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

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

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

29 (6) cruelty of treatment toward the complaining party or a minor child of

1 the complaining party, if there is no reasonable expectation of reconciliation;

2 (7) excessively vicious conduct toward the complaining party or a minor
3 child of the complaining party, if there is no reasonable expectation of reconciliation; or

4 (8) mutual consent, if:

5 (i) [the parties do not have any minor children in common;

6 (ii)] the parties execute and submit to the court a written settlement
7 agreement signed by both parties that resolves all issues relating to:

8 1. alimony; [and]

9 2. the distribution of property, including the relief provided
10 in §§ 8–205 and 8–208 of this article; AND

11 **3. THE CARE, CUSTODY, ACCESS, AND SUPPORT OF**
12 **MINOR OR DEPENDENT CHILDREN;**

13 **(II) THE PARTIES ATTACH TO THE SETTLEMENT AGREEMENT A**
14 **COMPLETED CHILD SUPPORT GUIDELINES WORKSHEET IF THE SETTLEMENT**
15 **AGREEMENT PROVIDES FOR THE PAYMENT OF CHILD SUPPORT;**

16 (iii) neither party files a pleading to set aside the settlement
17 agreement prior to the divorce hearing required under the Maryland Rules; [and]

18 (iv) both parties appear before the court at the absolute divorce
19 hearing; AND

20 **(V) AFTER REVIEWING THE SETTLEMENT AGREEMENT, THE**
21 **COURT IS SATISFIED THAT ANY TERMS OF THE AGREEMENT RELATING TO MINOR OR**
22 **DEPENDENT CHILDREN ARE IN THE BEST INTERESTS OF THOSE CHILDREN.**

23 (f) If a court decrees an absolute divorce on the grounds of mutual consent under
24 subsection (a)(8) of this section, the court may:

25 (1) merge or incorporate the settlement agreement into the divorce decree;
26 and

27 (2) modify or enforce the settlement agreement consistent with Title 8,
28 Subtitle 1 of this article.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2018.