

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 96

(Senator Norman)

Judicial Proceedings

Judiciary

Family Law - Divorce on Grounds of Mutual Consent - Court Appearance

This bill repeals a requirement that both parties appear before the court in order to be granted an absolute divorce on the ground of mutual consent.

Fiscal Summary

State Effect: The bill does not materially impact the workload of the Judiciary. The Judiciary can use existing resources to modify any necessary forms.

Local Effect: The bill does not materially impact the workload of the circuit courts.

Small Business Effect: None.

Analysis

Current Law:

Divorce

A court may grant an absolute divorce on the following grounds:

- adultery;
- desertion, if the desertion is deliberate and final, has continued for 12 months without interruption, and there is no reasonable expectation of reconciliation;
- conviction of a felony or misdemeanor in any state or federal court, if the defendant has been sentenced to serve at least three years, or an indeterminate sentence, and has served 12 months of the sentence;

- 12-month separation, when the parties have lived separate and apart without cohabitation for 12 months without interruption before the filing of the divorce application;
- insanity, as specified; or
- cruelty of treatment or excessively vicious conduct toward the complaining party or a minor child of the complaining party, if there is no reasonable expectation of reconciliation.

Additionally, a court may grant an absolute divorce on the ground of mutual consent if:

- the parties do not have any minor children in common;
- the parties execute and submit to the court a written settlement agreement signed by both parties that resolves all issues relating to (1) alimony and (2) the distribution of property, including a transfer of ownership of an interest in marital property, monetary awards, and/or an award of possession and use of the family home and family use personal property;
- neither party files a pleading to set aside the settlement agreement prior to the divorce hearing required under the Maryland Rules; and
- both parties appear before the court at the absolute divorce hearing.

If the court decrees an absolute divorce on the ground of mutual consent, the court may merge or incorporate the settlement agreement into the divorce decree and modify or enforce the settlement agreement as authorized by statutory provisions.

Additional Information

Prior Introductions: SB 499 of 2017 passed the Senate and received a hearing in the House Judiciary Committee, but no further action was taken.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - January 9, 2018
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