

# HOUSE BILL 402

D4  
HB 336/10 – JUD

9lr1789

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By: **Delegate Atterbary**

Introduced and read first time: January 30, 2019

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 7, 2019

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Family Law – Grounds for Divorce**

3 FOR the purpose of authorizing a court to grant ~~a limited divorce on the ground of~~  
4 ~~separation or~~ an absolute divorce on the ground of ~~12-month~~ separation of affection  
5 if the parties are not engaging in sexual relations under certain circumstances; and  
6 generally relating to the grounds for ~~a limited or~~ an absolute divorce.

7 BY repealing and reenacting, with amendments,  
8 Article – Family Law  
9 Section ~~7-102~~ and 7-103  
10 Annotated Code of Maryland  
11 (2012 Replacement Volume and 2018 Supplement)

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

14 **Article – Family Law**

15 ~~7-102.~~

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

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

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

3 ~~(3) desertion; or~~

4 ~~(4) separation, if the parties are [living separate and apart without~~  
5 ~~cohabitation] **NOT ENGAGING IN SEXUAL RELATIONS.**~~

6 ~~(b) The court may decree a divorce under this section for a limited time or for an~~  
7 ~~indefinite time.~~

8 ~~(e) The court that granted a decree of limited divorce may revoke the decree at~~  
9 ~~any time on the joint application of the parties.~~

10 ~~(d) If an absolute divorce is prayed and the evidence is sufficient to entitle the~~  
11 ~~parties to a limited divorce, but not to an absolute divorce, the court may decree a limited~~  
12 ~~divorce.~~

13 7-103.

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

15 (1) adultery;

16 (2) desertion, if:

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

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

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

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

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

25 (ii) served 12 months of the sentence;

26 (4) ~~12-month~~ separation **OF AFFECTION**, when the parties have [lived  
27 separate and apart without cohabitation] **NOT ENGAGED IN SEXUAL RELATIONS** for 12  
28 months without interruption before the filing of the application for divorce;

29 (5) insanity if:

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

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

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

9 (6) cruelty of treatment toward the complaining party or a minor child of  
10 the complaining party, if there is no reasonable expectation of reconciliation;

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

13 (8) mutual consent, if:

14 (i) the parties execute and submit to the court a written settlement  
15 agreement signed by both parties that resolves all issues relating to:

16 1. alimony;

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

19 3. the care, custody, access, and support of minor or  
20 dependent children;

21 (ii) the parties attach to the settlement agreement a completed child  
22 support guidelines worksheet if the settlement agreement provides for the payment of child  
23 support;

24 (iii) neither party files a pleading to set aside the settlement  
25 agreement prior to the divorce hearing required under the Maryland Rules; and

26 (iv) after reviewing the settlement agreement, the court is satisfied  
27 that any terms of the agreement relating to minor or dependent children are in the best  
28 interests of those children.

29 (b) Recrimination is not a bar to either party obtaining an absolute divorce on the  
30 grounds set forth in subsection (a)(1) through (7) of this section, but is a factor to be  
31 considered by the court in a case involving the ground of adultery.

32 (c) Res judicata with respect to another ground under this section is not a bar to  
33 either party obtaining an absolute divorce on the ground of 12-month separation.

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

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

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

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

12 (1) merge or incorporate the settlement agreement into the divorce decree;  
13 and

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

16 (g) For purposes of subsection (a)(4) of this section, the “filing of the application  
17 for divorce” includes an oral amendment made by a party with the consent of the other  
18 party at a hearing on the merits in open court to a previously filed application for limited  
19 or absolute divorce.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 October 1, 2019.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.