

HOUSE BILL 243

D4
HB 80/20 – JUD

(PRE-FILED)

11r0909

By: **Delegate Atterbeary**

Requested: October 9, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Grounds for Divorce**

3 FOR the purpose of altering certain grounds for a limited divorce and an absolute divorce;
4 authorizing the court to decree a limited divorce on the ground of irreconcilable
5 differences and an absolute divorce on the ground of completion of a 6-month waiting
6 period under certain circumstances; and generally relating to 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 (2019 Replacement Volume and 2020 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;

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

21 (3) desertion; [or]

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (4) separation, if the parties are living separate and apart without
2 cohabitation; **OR**

3 **(5) IRRECONCILABLE DIFFERENCES, IF THE MARRIAGE IS**
4 **IRRETRIEVABLY BROKEN AND THERE IS NO REASONABLE EXPECTATION OF**
5 **RECONCILIATION.**

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

8 (c) 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] 6 months without
18 interruption 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] 6–MONTH separation, when parties have lived separate
27 and apart without cohabitation for [12] 6 months without interruption before the filing of
28 the application for divorce;

1 **(5) COMPLETION OF A 6-MONTH WAITING PERIOD, IF ONE OF THE**
2 **PARTIES HAS FILED FOR A LIMITED DIVORCE UNDER § 7-102 OF THIS SUBTITLE AT**
3 **LEAST 6 MONTHS BEFORE THE FILING OF THE APPLICATION FOR DIVORCE;**

4 **[(5)] (6)** insanity if:

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

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

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

13 **[(6)] (7)** cruelty of treatment toward the complaining party or a minor
14 child of the complaining party, if there is no reasonable expectation of reconciliation;

15 **[(7)] (8)** excessively vicious conduct toward the complaining party or a
16 minor child of the complaining party, if there is no reasonable expectation of reconciliation;
17 or

18 **[(8)] (9)** mutual consent, if:

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

21 1. alimony;

22 2. the distribution of property, including the relief provided
23 in §§ 8-205 and 8-208 of this article; and

24 3. the care, custody, access, and support of minor or
25 dependent children;

26 (ii) the parties attach to the settlement agreement a completed child
27 support guidelines worksheet if the settlement agreement provides for the payment of child
28 support;

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

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

4 (b) Recrimination is not a bar to either party obtaining an absolute divorce on the
5 grounds set forth in subsection (a)(1) through [(7)] **(8)** of this section, but is a factor to be
6 considered by the court in a case involving the ground of adultery.

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

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

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

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

18 (f) If a court decrees an absolute divorce on the grounds of mutual consent under
19 subsection [(a)(8)] **(A)(9)** of this section, the court may:

20 (1) merge or incorporate the settlement agreement into the divorce decree;
21 and

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

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

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2021.