

Significant changes to Maryland Divorce Law will be finalized and will go into effect as of October 1, 2023. The new legislation repeals the entire section of the law that permits an individual to obtain a limited divorce and alters the grounds for absolute divorce in the State of Maryland.

Limited Divorce

Prior to the new legislation, Maryland recognized two types of divorce – limited divorce and absolute divorce.

A limited divorce allowed individuals a basis for seeking temporary relief, perhaps who were unsure about permanently ending the marriage or for other reasons. A limited divorce allowed the parties access to the courts to resolve child custody and support issues, and alimony but did not make decisions on the distribution or termination of properties or assets. Contrary to an absolute divorce, the granting of a limited divorce did not terminate the marriage and remarriage was not permitted. The parties could end the limited divorce at any time or continue indefinitely with the typical scenario of waiting out the 12 months separation, if grounds not established, and amending the limited divorce to absolute divorce to end the marriage.

However, with the new legislation, this ability to obtain a limited divorce has been repealed in its entirety and is no longer available under Maryland Law, leaving absolute divorce as the only viable option.

Absolute Divorce

While absolute divorce remains available to those parties seeking divorce, there have been considerable changes to the grounds to absolute divorce. Prior to the new law, parties could obtain an absolute divorce under the following grounds:

- Adultery;
- Desertion;
- Conviction of a felony or misdemeanor with incarceration;
- 12-month separation;
- Insanity; or
- Cruelty of treatment or vicious conduct toward a spouse and/or minor child.

These grounds have been repealed under the new law and have been replaced with the following:

- 6-month separation if the parties have lived separate and apart for 6 months without interruption before the filing of the application for divorce even if the parties are living under the same roof or if separation is in accordance with a court order;
- Irreconcilable differences based on the reasons stated by the complainant for the permanent termination of the marriage. The bill specifies that parties who have pursued separate lives must be deemed to have lived separate and apart for purposes of the ground of six-month separation even if the parties reside under the same roof or the separation is in accordance with a court order; or
- Permanent legal incapacity of a party who permanently lacks the capacity to make decisions.

This is not legal advice. Please consult an attorney about your specific situation. To get free legal help visit:

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Or call intake between 9 a.m. and 12 p.m. on Monday through Thursday at 1(800) 510-0050 or (410) 547-6537

Under current law, a court may also grant an absolute divorce on the ground of mutual consent. The bill does not alter provisions regarding an absolute divorce based on this ground. In some cases, the court may also grant a divorce based on the permanent legal incapacity of a spouse to make decisions.

Please access the Fiscal and Policy note here for more information. [Legislation - SB0036 \(maryland.gov\)](#)

Impact of New Legislation

The new legislative will have significant impact on those who wish to obtain a divorce and those attorneys who represent them. Some advantages to the new law are as follows:

- Obtaining a divorce is easier and quicker for the parties as the time frame required to do so is significantly lessened.
- Parties may remain in their shared home and “live under the same roof” while awaiting the 6-month separation time to lapse provided the parties live separate and apart.
- Conflicts and stress between the parties and the effects on the children are potentially reduced and hopefully will allow for an easier transition for families.
- While the original grounds for absolute divorce have been repealed, those former grounds may still be considered as factors when deciding child, alimony, and other divorce related issues.

While the advantages to the legislation are quite appealing there are still some questions left to be answered such as:

- How will the courts handle those limited and absolute divorces that have been filed before October 1, 2023, when the new law goes into effect?
- Will clients feel disadvantaged without the “legal crutch” of the limited divorce when uncertain whether to permanently end their marriage?
- How will Maryland define irreconcilable differences? Generally, the definition is broad in that it refers to the inability for a married couple to resolve their differences to save the marriage creating the basis for a no-fault divorce. Will misbehavior on the part of spouse remain relevant for support and monetary determinations?
- What guidelines will the court utilize when deciding a case based on the permanent incapacity of a party? Health insurance decisions and financial support decisions are a few factors that must be addressed when deciding these issues.

Over the next few months, we will await the court recommendations and move forward toward what is expected to be a more efficient, expeditious, and less stressful process for obtaining a divorce for both clients and attorneys.