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Who are MVLS' Family Law Clients

- May own a home but often no other major assets
- Typically the working poor – many times working multiple jobs
- Sometimes escaping abusive situations
- Have often had no experience or challenging experiences with legal system

2023 Legislative Changes To Maryland Divorce Law and Practice Tips

2023 Family Law Changes

- Maryland Child Abduction Prevention Act
- Child Custody-Relocation of Child-Expedited Hearing (Assurance of Child's Safety Act)
- **Family Law-Grounds Divorce**
- Child in Need of Assistance-Neglect-Cannabis Use
- Execution on a Judgment-Child Support Arrearages-Workers' Compensation

Current Law until September 30, 2023

Family Law Article 7-102- LIMITED DIVORCE

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

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

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

(3) desertion; or

(4) separation, if the parties are living separate and apart without cohabitation.

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

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

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

Family Law Article 7-103- ABSOLUTE DIVORCE

§ 7-103 (a) *Grounds for absolute divorce* - The court may decree an absolute divorce on the following grounds:

(1) **adultery**;

(2) **desertion**, if:

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

(ii) the desertion is deliberate and final; and

(iii) there is no reasonable expectation of reconciliation;

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

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

(ii) served 12 months of the sentence;

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

(5) **insanity if**:

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

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

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

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

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

(8) **mutual consent**, if

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

1. alimony;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Law Effective October 1, 2023

~~Family Law Article 7-102-Limited Divorce~~

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

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

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

~~(3) desertion; or~~

~~(4) separation, if the parties are living separate and apart without cohabitation.~~

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

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

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

Family Law Article 7-103-Absolute Divorce

~~(1) **adultery**;~~

~~(2) **desertion**, if:~~

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

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

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

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

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

~~(ii) served 12 months of the sentence;~~

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

(5) ~~**insanity if**:~~

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

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

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

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

~~(7) **excessively vicious conduct** toward the complaining party or a minor child of the complaining party, if there is no reasonable expectation of reconciliation.~~

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

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

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

~~(f)~~ (e) If a court decrees an absolute divorce on the grounds of mutual consent under subsection ~~(a)(8)~~ (a)(3)of this section, the court may:

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

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

~~(g)~~(e) For purposes of subsection ~~(a)(4)~~ (a)(1) of this section, the "filing of the application for divorce" includes an oral amendment made by a party with the consent of the other party at a hearing on the merits in open court to a previously filed application for limited **divorce filed before October 1, 2023,** or absolute divorce.

What Remains
Mutual Consent

(8) **mutual consent**, if:

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

1. alimony;
2. the distribution of property, including the relief provided in §§ 8–205 and 8–208 of this article; and
3. the care, custody, access, and support of minor or dependent children;

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

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

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

NEW STATE OF AFFAIRS & MOVING FORWARD

There are 3 grounds for divorce

1. Six Months Separation
2. Irreconcilable Differences
3. Mutual Consent

6 Months Separation

(1) 6–month separation, if the parties have lived separate and apart for 6 months without interruption before the filing of the application for divorce;

Irreconcilable Differences

(2) irreconcilable differences

based on the reasons stated by the complainant for the permanent termination of the marriage; or

(3) Mutual Consent

Family Law 7-103(b)

(b) Parties who have pursued separate lives shall be deemed to have lived separate and apart for purposes of subsection (a)(1) of this section even if:

(1) the parties reside under the same roof; or

(2) the separation is in accordance with a court order.

Family Law 7-103(f)

(f) For purposes of subsection (a)(1) of this section, the “filing of the application for divorce” includes an oral amendment made by a party with the consent of the other party at a hearing on the merits in open court to a previously filed application for limited divorce filed **before October 1, 2023**, or absolute divorce.

Let’s Dissect All of This

Six Month Separation

(1) 6–month separation, if the parties have lived separate and apart for 6 months without interruption before the filing of the application for divorce;

Family Law 7-103(b)

(b) Parties who have pursued separate lives shall be deemed to have lived separate and apart for purposes of subsection (a)(1) of this section even if:

(1) the parties reside under the same roof; or

(2) the separation is in accordance with a court order.

Family Law 7-103(f)

(f) For purposes of subsection (a)(1) of this section, the “filing of the application for divorce” includes an oral amendment made by a party with the consent of the other party at a hearing on the merits in open court to a previously filed application for limited divorce filed **before October 1, 2023**, or absolute divorce.

Irreconcilable Differences

(2) irreconcilable differences

based on the reasons stated by the complainant for the permanent termination of the marriage;

Blacks Law Dictionary Definition:

Irreconcilable differences-No-fault ground for dissolution of marriage under many state divorce statutes. *See irretrievable breakdown of marriage*

Irretrievable breakdown of marriage-as a no-fault ground for divorce means a condition in which either or both spouses are unable or unwilling to cohabit as husband and wife for which there are no prospects for conciliation.

The Self-Help Guide Divorce in New Jersey, 2019 Edition:

- To file a no-fault divorce complaint based on irreconcilable differences in New Jersey, the following requirements must be met:
- You or your spouse must have lived in New Jersey for 12 consecutive months preceding the filing of the complaint.
- You and your spouse must have experienced irreconcilable differences for a period of six months.
- The irreconcilable differences make it appear that the marriage should be dissolved.
- There is no reasonable prospect of reconciliation.

“There is no need to accuse the other spouse of doing anything wrong when filing based on irreconcilable differences. In fact, making accusations of adultery or other “wrongdoing” will not affect the outcome of the divorce or improve your chances of getting more child support, alimony, or other financial arrangements, such as equitable distribution.”

In California *irreconcilable differences* means that at least one party asserts that the marriage cannot be saved. The proof is based on a statement by one of the parties and does not require other proof.

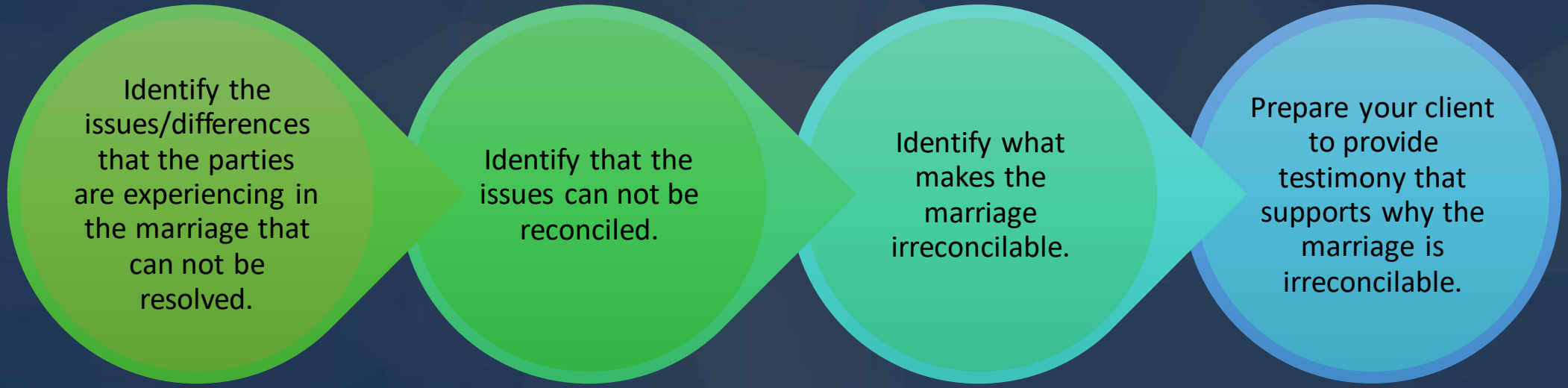
In Brokaw v. Brokaw, 2010-Ohio-1053, ¶ 4, the Court ruled that the lower court "did not abuse its discretion by granting a divorce due to incompatibility[,]" when "both parties gave testimony in which they agreed they were no longer compatible."

WHAT DOES THIS MEAN FOR MARYLAND?

CAVEAT!!!!

ALL JURISDICTIONS ARE DIFFERENT!

SUGGESTIONS-PRACTICE TIPS



Will prior fault grounds serve as a reason for irreconcilable differences?

Likely YES!

Adultery
Desertion
Conviction/Jail Sentence
Cruelty
Excessive Vicious Conduct
Insanity

Be mindful that the Legislature kept the following in the Family Law Article 7-103 Statute:

(c) **Recrimination** is not a bar to either party obtaining an absolute divorce on the grounds set forth in subsection (a)(1) through (3) of this section.

(d) **Res judicata** with respect to another ground under this section is not a bar to either party obtaining an absolute divorce on the grounds of 6 month separation.

QUESTIONS?

QUESTIONS?

QUESTIONS?

QUESTIONS?

QUESTIONS?

QUESTIONS?

QUESTIONS?

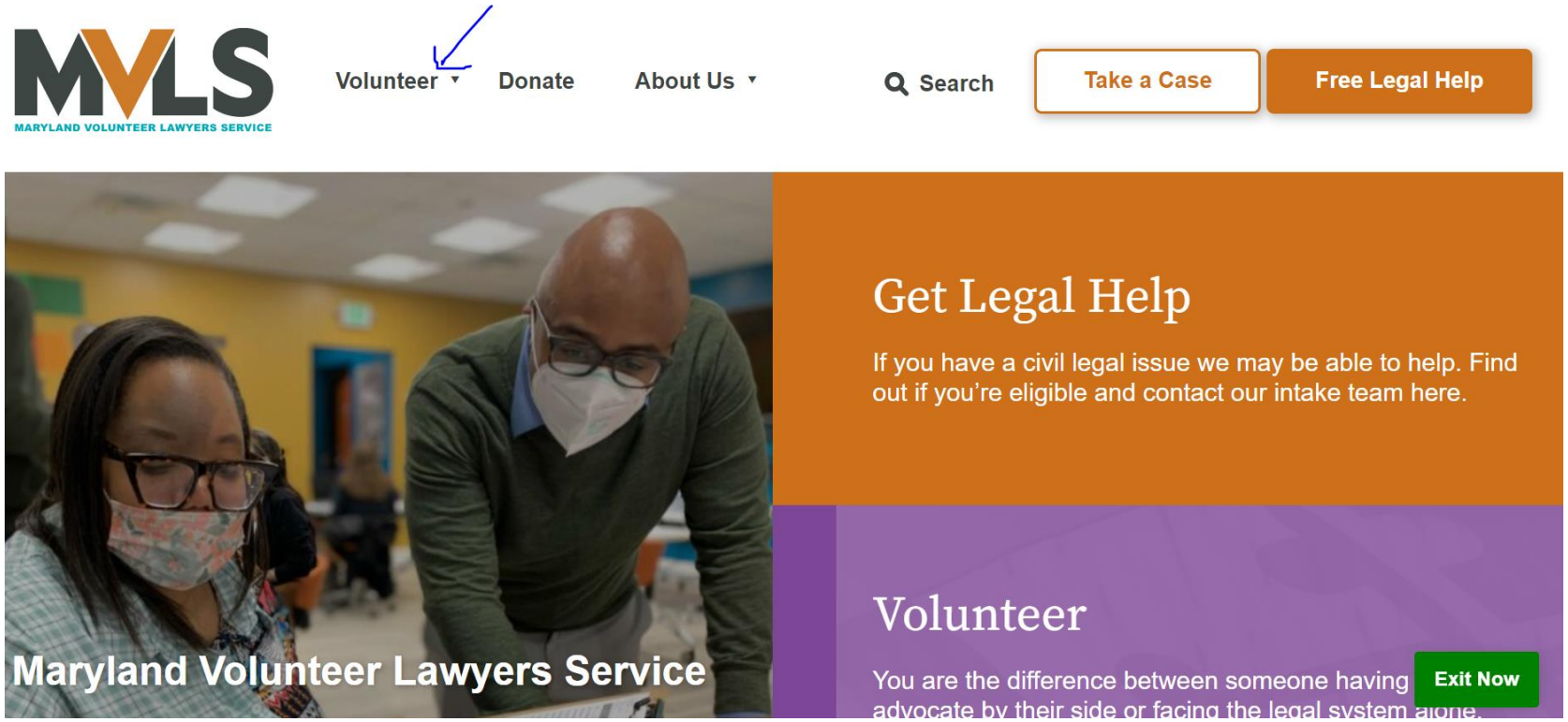
QUESTIONS?

QUESTIONS?

THAT’S A WRAP!

Resources for MVLS Volunteers:

Looking for Pro Bono Cases?



MVLS Pro Bono Portal:

WELCOME TO THE MVLS PRO BONO PORTAL!

Select a case today by reviewing available cases shown below in real time. You can click "Learn More" to express your interest in the case, or click "Share Case" to forward the available case to a colleague.

If you are not currently a MVLS volunteer, please **click here** to register.
By taking a case today, you are helping MVLS to ensure Justice For All.

All | Bankruptcy | Debt Collection | Deed Transfer | Estates | Expungement | Family | Foreclosure/Tax Sale | Landlord-Tenant | Tax | Other Category

Search ... | All Counties ▼

Single Mom Can't Afford A Large Payment

Client is being sued by her former landlord for $4146.59. She admits she owes some but not all of the debt and is hoping to reduce the amount she has to pay. Court date set for 7/20/18 at 1:30pm.

Location:	Ref. #:	Case Type:
Baltimore County	18-0138741	Debt Collection

Share Case | Learn More

I Admit To The Debt, But Can We Negotiate A Settlement.

Client is being sued for $933.00 for failing to make payments towards a debt. Client agrees that she owes the debt. There are no judgments entered in the case. Client has paid approximately $300 toward the debt and would like to work out a settlement for the remaining. Affidavit Judgment Hearing: 7/23/18 at 1:00PM. Trial: 8/3/18 at 9:00AM.

Location:	Ref. #:	Case Type:
Washington	18-0138685	Debt Collection

Share Case | Learn More

You Have Left Me No Other Choice But To File For Rent Escrow.

Client wishes to initiate a rent escrow case after nothing has been done to make repairs. Client has lived in the property since October 2016 and problems in the unit began in December 2017. To date LL, has not tried to resolve the mold issue, flooding, falling attic stairs, and the hole in the ceiling.

Location:	Ref. #:	Case Type:
Baltimore County	18-0138671	Landlord-Tenant

Share Case | Learn More

Landlord Requests The Move, Now Refusing My Security Deposit.

Client filed suit against her previous Landlord for the return of her security deposit and three times the amount. Client only lived in the property for 3

Looking Towards A Fresh Start

Client seeks help with expunging her criminal record.

Here's To New Beginnings!

Client seeks to go over her criminal r[illegible]d wit[illegible] volunteer and to have the eligible ca[illegible] from her record.

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Judicare Program

- Volunteers represent clients on contested custody or divorce matters
- Volunteers receive a low bono fee of up $120 per hour for attorney time and $40 for support staff time, up to $4,200 total per case
- Volunteers must have 3 years experience handling contested custody matters to participate
- Contact Nancy Grimm at ngrimm@mvlslaw.org

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FREE Upcoming Training & Volunteer Opportunities:
More info: https://mvlslaw.org/mvls-events/

Recent & Upcoming Trainings:

- October 12th – Estate Planning Basics
- Recorded
  - Consumer Debt and Credit Repair for Trafficking Survivors
  - Best Practices for IRS Automated Underreporter System

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FREE Recorded Trainings:
Go to https://mvlslaw.org/volunteer/volunteer-resources/

Recordings of past trainings are available in the following categories:

- -Consumer
- -Estate Planning & Estate Administration
- -Expungement
- -Family Law
- -Housing
- -Human Trafficking Prevention
- -Tax
- -Miscellaneous (business and soft skills)

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