

New Maryland Law Will Remove Long-Existing Barriers to Divorce

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Commencing a divorce case will soon be easier in Maryland. As of October 1, 2023, a spouse will be able to file for divorce based on “irreconcilable differences.” This is a monumental change in the law that removes significant impediments to divorce. It has long been the law in Maryland that a party seeking a divorce could not obtain a divorce unless the parties had been living in separate residences for at least 12 months or a party could prove a fault-based ground for divorce such as adultery, desertion, insanity, or cruelty. The new law eliminates those fault-based grounds and removes the requirement that parties reside in separate residences. Parties may still seek a divorce based on a separation, but the time frame has been shortened to six months and the parties may be deemed separated even if they are residing in the same residence, as long as they have been pursuing separate lives. These changes to the law are important because proving a fault-based ground for divorce in many instances could be difficult or impossible and being required to reside in separate homes to establish a 12-month separation was not economically feasible for many couples. Parties who have already filed for divorce and have a case pending in a Maryland court have the option of amending their pleadings after the new law takes effect on October 1, 2023. In addition to obtaining a divorce based on irreconcilable differences or having pursued separate lives for at least six months, parties may also seek a divorce based on “mutual consent” if they execute and submit to the court a written settlement agreement that resolves all issues arising out of the marriage, including alimony, distribution of property, and the care, custody, access, and support of the parties’ children.