

HOUSE BILL No. 4186

February 15, 1989, Introduced by Reps. Miller, Gubow, Berman, Perry Bullard, Johnson, Bandstra, Gilmer, Martin, Dolan, Fitzgerald, Willis Bullard, Kilpatrick, Gire, Stabenow, Munsell, Honigman, Emmons, Sparks, Brown, Watkins, Barns, Nye, Bennane, Palamara, Jondahl, Ciaramitaro and Bankes and referred to the Committee on Judiciary.

A bill to amend sections 13 and 23 of chapter 84 of the Revised Statutes of 1846, entitled "Of divorce," section 23 as amended by Act No. 193 of the Public Acts of 1983, being sections 552.13 and 552.23 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 13 and 23 of chapter 84 of the Revised
2 Statutes of 1846, section 23 as amended by Act No. 193 of the
3 Public Acts of 1983, being sections 552.13 and 552.23 of the
4 Michigan Compiled Laws, are amended to read as follows:

5 Sec. 13. (1) In ~~every~~ AN action ~~brought, either~~ for ~~a~~
6 divorce or ~~for a separation~~ SEPARATE MAINTENANCE, the court may
7 require either party to pay alimony for the suitable maintenance
8 of the adverse party, to pay such sums as shall be ~~deemed~~
9 CONSIDERED proper and necessary to conserve any real or personal

1 property owned by the parties or either of them, and to pay any
2 sums necessary to enable the adverse party to carry on or defend
3 the action, during its pendency. ~~It~~ IN AWARDING TEMPORARY ALI-
4 MONY, THE COURT SHALL PROVIDE THAT THE FINANCIAL RESPONSIBILITY
5 OF EACH PARTY TO MEET THE EXPENSES OF MAINTAINING THE FAMILY DOM-
6 ICILE CONTINUE IN THE SAME PROPORTION AS DURING THE 5 YEARS OF
7 MARRIAGE IMMEDIATELY PRECEDING THE FILING OF THE ACTION.

8 "EXPENSES OF THE FAMILY DOMICILE" INCLUDES, BUT IS NOT LIMITED
9 TO, ALL OF THE FOLLOWING:

10 (A) HOUSE PAYMENT OR RENT.

11 (B) AUTOMOBILE PAYMENT.

12 (C) INSURANCE ON HOUSE AND AUTOMOBILES.

13 (D) FOOD.

14 (E) UTILITIES.

15 (F) CONSUMER LOANS.

16 (G) CREDIT CARD DEBT.

17 (H) DAY CARE.

18 (2) THE COURT may award costs against either party and award
19 execution for the same, or it may direct such costs to be paid
20 out of any property sequestered, or in the power of the court, or
21 in the hands of a receiver.

22 (3) ~~(2)~~ An award of alimony may be terminated by the court
23 as of the date the party receiving alimony remarries unless a
24 contrary agreement is specifically stated in the judgment of
25 divorce. Termination of an award under this subsection shall not
26 affect alimony payments which have accrued prior to that
27 termination.

1 Sec. 23. (1) Upon entry of a judgment of divorce or
2 separate maintenance, if the estate and effects awarded to either
3 party are insufficient for the suitable support and maintenance
4 of either party and any children of the marriage as are committed
5 to the care and custody of either party, the court may further
6 award to either party the part of the real and personal estate of
7 either party and alimony out of the estate real and personal, to
8 be paid to either party in gross or otherwise as the court con-
9 sideres just and reasonable, after considering ~~the ability of~~
10 ~~either party to pay and the character and situation of the par-~~
11 ~~ties, and all the other circumstances~~ of the ~~case.~~ FOLLOWING
12 FACTORS:

13 (A) THE LENGTH OF TIME THE PARTIES WERE MARRIED.

14 (B) THE LENGTH OF TIME DURING THE MARRIAGE THAT THE PARTIES
15 LIVED TOGETHER.

16 (C) THE AGE AND THE PHYSICAL, MENTAL, OR EMOTIONAL CONDITION
17 OF EACH PARTY.

18 (D) THE FINANCIAL RESOURCES OF EACH PARTY, INCLUDING ALL OF
19 THE FOLLOWING:

20 (i) REAL, PERSONAL, AND INTANGIBLE PROPERTY AWARDED TO A
21 PARTY IN THE JUDGMENT OF DIVORCE OR SEPARATE MAINTENANCE.

22 (ii) THE GROSS AND NET INCOME OF A PARTY, INCLUDING INCOME
23 FROM PENSION, PROFIT SHARING, OR RETIREMENT PLANS, AND ALL OTHER
24 SOURCES.

25 (E) THE EARNING CAPACITY OF EACH PARTY, TAKING INTO ACCOUNT
26 ALL OF THE FOLLOWING:

1 (i) THE MARKETABLE SKILLS OF THE PARTY SEEKING ALIMONY, THE
2 JOB MARKET FOR THOSE SKILLS, AND THE TIME AND EXPENSE THAT WOULD
3 BE NECESSARY FOR THAT PARTY TO ACQUIRE EDUCATION OR TRAINING TO
4 DEVELOP THOSE SKILLS.

5 (ii) THE NEED FOR EDUCATION OR TRAINING OF THE PARTY SEEKING
6 ALIMONY TO ALLOW HIM OR HER TO ACQUIRE A MARKETABLE SKILL.

7 (iii) THE ABILITY OF THE PARTY SEEKING ALIMONY TO ENGAGE IN
8 EMPLOYMENT WITHOUT INTERFERING WITH THE INTERESTS OF DEPENDENT
9 CHILDREN IN THE CUSTODY OF THAT PARTY.

10 (F) THE EXTENT TO WHICH THE PARTY SEEKING ALIMONY CONTRIB-
11 UTED TO THE ATTAINMENT OF AN EDUCATION, TRAINING, CAREER POSI-
12 TION, OR LICENSE BY THE OTHER PARTY.

13 (G) THE REDUCED OR LOST LIFETIME EARNING CAPACITY OF THE
14 PARTY SEEKING ALIMONY AS A RESULT OF HAVING FOREGONE OR DELAYED
15 EDUCATION, TRAINING, EMPLOYMENT, OR CAREER OPPORTUNITIES DURING
16 THE MARRIAGE.

17 (H) THE FINANCIAL NEED OF THE PARTY SEEKING ALIMONY, AND THE
18 ABILITY OF THE PARTY FROM WHOM ALIMONY IS SOUGHT TO PROVIDE FOR
19 HIS OR HER OWN FINANCIAL NEEDS WHILE MEETING THE FINANCIAL NEEDS
20 OF THE SPOUSE SEEKING ALIMONY.

21 (I) THE STANDARD OF LIVING ESTABLISHED DURING THE MARRIAGE,
22 EXCEPT THAT IN MARRIAGES OF NOT LESS THAN 10 YEARS DURATION, ALI-
23 MONY SHALL BE AWARDED SO AS TO EQUALIZE THE STANDARDS OF LIVING
24 OF BOTH PARTIES.

25 (J) THE TAX LIABILITIES OR BENEFITS FOR EACH PARTY.

1 (K) OTHER FACTORS THE COURT CONSIDERS NECESSARY OR
2 APPROPRIATE TO CONSIDER IN ORDER TO ARRIVE AT AN EQUITABLE
3 ALIMONY AWARD.

4 (2) Upon certification by a county department of social
5 services that a complainant or petitioner in a proceeding under
6 this chapter is receiving public assistance either personally or
7 for children of the marriage, payments received by the friend of
8 the court for the support and education of ~~such~~ THE children or
9 maintenance of the party shall be transmitted to the state
10 department of social services.

11 (3) To reimburse the county for the cost of handling alimony
12 or support money payments, the court shall order the payment of a
13 service fee of \$2.00 per month, payable semiannually on January 2
14 and July 2 thereafter, to the friend of the court. The service
15 fee shall be paid by the person ordered to pay the alimony or
16 support money. The service fee shall be computed from the begin-
17 ning date of the alimony or support order and shall continue
18 while the alimony or support order is operative. The service fee
19 shall be paid 6 months in advance on each due date, except for
20 the first payment, which shall be paid at the same time the ali-
21 mony or support order is filed, and shall cover the period of
22 time from that month until the next calendar due date. Every
23 order or judgment which provides for the payment of temporary or
24 permanent alimony or support money which requires collection by
25 the friend of the court shall provide for the payment of the
26 service fee. Any such order or judgment for the payment of
27 temporary or permanent alimony or support money, entered before

1 ~~the effective date of this 1983 amendatory act~~ NOVEMBER 1,
2 1983, may be amended by the court, upon its own motion, to pro-
3 vide for the payment of the service fee in the amount provided by
4 this subsection, upon proper notice to the person ordered to pay
5 the alimony or support money. The service fees shall be turned
6 over to the county treasurer and credited to the general fund of
7 the county. If the court appoints the friend of the court custo-
8 dian, receiver, trustee, or escrow agent of assets owned by the
9 husband and wife, or either of them, the court may fix the amount
10 of the fee for such service, to be turned over to the county
11 treasurer and credited to the general fund of the county. A
12 person who fails or refuses to pay a fee ordered pursuant to this
13 subsection may be held in contempt of court.

14 (4) THE COURT MAY REVIEW THE AMOUNT OF ALIMONY OR THE NEED
15 FOR ALIMONY AT ANY TIME UPON THE MOTION OF EITHER PARTY.