

HOUSE BILL No. 4574

April 10, 1989, Introduced by Reps. Terrell, Clack, DeMars, Hunter, Stallworth, Honigman, Bennane, Harrison, Leland, Joe Young, Sr., Power, Sikkema, Martin and Bandstra and referred to the Committee on Judiciary.

A bill to amend sections 3, 6, 7, 9, 12, 15, 16, and 45 of chapter 84 of the Revised Statutes of 1846, entitled "Of divorce,"

sections 15 and 16 as amended by Act No. 214 of the Public Acts of 1985, being sections 552.3, 552.6, 552.7, 552.9, 552.12, 552.15, 552.16, and 552.45 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 3, 6, 7, 9, 12, 15, 16, and 45 of chap-
2 ter 84 of the Revised Statutes of 1846, sections 15 and 16 as
3 amended by Act No. 214 of the Public Acts of 1985, being sections
4 552.3, 552.6, 552.7, 552.9, 552.12, 552.15, 552.16, and 552.45 of
5 the Michigan Compiled Laws, are amended to read as follows:

6 Sec. 3. When a marriage is supposed to be void, or the
7 validity ~~thereof~~ OF THE MARRIAGE is doubted, for any of the
8 causes ~~mentioned~~ SET FORTH in ~~the 2 preceding~~ sections 1 AND

1 2 OF THIS CHAPTER; either party, ~~excepting in the cases where~~
 2 EXCEPT IN A CASE IN WHICH a contrary provision is ~~hereinafter~~
 3 made IN THIS CHAPTER, may file a petition or ~~bill~~ COMPLAINT in
 4 the ~~circuit~~ DOMESTIC RELATIONS court ~~of~~ FOR the county, where
 5 1 OR BOTH OF the parties ~~or + of them,~~ reside, ~~or in the court~~
 6 ~~of chancery~~ for annulling ~~the same and such~~ THE MARRIAGE. THE
 7 petition or ~~bill~~ COMPLAINT shall be filed and proceedings shall
 8 be ~~had thereon~~ CONDUCTED as in the case of a petition or ~~bill~~
 9 COMPLAINT filed in ~~said~~ THE court for a divorce. ~~and upon~~
 10 ~~due~~ UPON proof of the nullity of the marriage, it shall be
 11 declared void by a decree or sentence of nullity.

12 Sec. 6. (1) AN ACTION FOR DIVORCE SHALL BE BROUGHT IN THE
 13 DOMESTIC RELATIONS COURT.

14 (2) ~~(+)~~ A complaint for divorce may be filed ~~in the cir~~
 15 ~~cuit court~~ upon the allegation that there has been a breakdown
 16 of the marriage relationship to the extent that the objects of
 17 matrimony have been destroyed and there remains no reasonable
 18 likelihood that the marriage can be preserved. In the complaint
 19 the plaintiff shall make no other explanation of the grounds for
 20 divorce than by the use of the statutory language.

21 (3) ~~(2)~~ The defendant, by answer, may either admit the
 22 grounds for divorce alleged or deny them without further
 23 explanation. An admission by the defendant of the grounds for
 24 divorce may be considered by the court but is not binding on the
 25 court's determination.

26 (4) ~~(3)~~ The court shall enter a judgment dissolving the
 27 bonds of matrimony if evidence is presented in open court that

1 there has been a breakdown in the marriage relationship to the
2 extent that the objects of matrimony have been destroyed and
3 there remains no reasonable likelihood that the marriage can be
4 preserved.

5 Sec. 7. (1) AN ACTION FOR SEPARATE MAINTENANCE SHALL BE
6 BROUGHT IN THE DOMESTIC RELATIONS COURT.

7 (2) ~~+(1)~~ An action for separate maintenance may be filed
8 ~~in the circuit court~~ in the same manner and on the same grounds
9 as an action for divorce. In the complaint the plaintiff shall
10 make no other explanation of the grounds for separate maintenance
11 than by use of the statutory language.

12 (3) ~~+(2)~~ The defendant, by answer, may either admit the
13 grounds for separate maintenance alleged or deny them without
14 further explanation. An admission by the defendant of the
15 grounds for separate maintenance may be considered by the court
16 but is not binding on the court's determination. The defendant
17 may also file a counterclaim for divorce.

18 (4) ~~+(3)~~ If the defendant files a counterclaim for divorce,
19 the allegation contained in the plaintiff's complaint as to the
20 grounds for separate maintenance may be considered by the court
21 but is not binding on the court's determination.

22 (5) ~~+(4)~~ If evidence is presented in open court that there
23 has been a breakdown in the marriage relationship to the extent
24 that the objects of matrimony have been destroyed and there
25 remains no reasonable likelihood that the marriage can be pre-
26 served, the court shall enter:

1 (a) A judgment of separate maintenance if a counterclaim for
2 divorce has not been filed.

3 (b) A judgment dissolving the bonds of matrimony if a coun-
4 terclaim for divorce has been filed.

5 Sec. 9. A judgment of divorce shall not be granted by ~~a~~
6 THE DOMESTIC RELATIONS court ~~in this state~~ in an action for
7 divorce unless the complainant or defendant has resided in this
8 state for 180 days immediately preceding the filing of the com-
9 plaint and the complainant or defendant has resided in the county
10 in which the complaint is filed for 10 days immediately preceding
11 the filing of the complaint.

12 Sec. 12. ~~Suits~~ AN ACTION to annul or affirm a marriage,
13 or for a divorce, shall be conducted in the same manner as other
14 ~~suits~~ ACTIONS in courts of equity; and the DOMESTIC RELATIONS
15 court shall have the power to award issues, to decree costs, and
16 to enforce its decrees, as in other cases.

17 Sec. 15. (1) After the filing of a complaint in an action
18 to annul a marriage or for a divorce or separate maintenance, on
19 the motion of either party or the friend of the court, or on the
20 court's own motion, the court may enter such orders concerning
21 the care, custody, and support of the minor children of the par-
22 ties during the pendency of the action as the court considers
23 proper and necessary. For the purposes of this section,
24 "support" may include payment of the expenses of medical, dental,
25 and other health care, child care expenses, and educational
26 expenses. If a support order is entered, the court shall require
27 that 1 or both parents shall obtain or maintain any health care

1 coverage that is available to them at a reasonable cost, as a
2 benefit of employment, for the benefit of the minor children of
3 the parties. If a parent is self-employed and maintains health
4 care coverage, the court shall require the parent to obtain or
5 maintain dependent coverage for the benefit of the minor children
6 of the parties, if available at a reasonable cost.

7 (2) Orders concerning the support of children of the parties
8 shall be enforceable as provided in the support and visitation
9 enforcement act, Act No. 295 of the Public Acts of 1982, being
10 sections 552.601 to 552.650 of the Michigan Compiled Laws.

11 ~~(3) The court may waive jurisdiction of any minor children~~
12 ~~under the age of 17 during the pendency of the action to the pro-~~
13 ~~bate court, to be governed by the laws of this state with respect~~
14 ~~to dependent and neglected children under the age of 17 years.~~

15 Sec. 16. (1) Upon annulling a marriage or entering a judg-
16 ment of divorce or separate maintenance, the court may enter such
17 orders as it considers just and proper concerning the care, cus-
18 tody, and support of the minor children of the parties. The
19 court may require either parent to file a bond with 1 or more
20 sufficient sureties, in a sum to be fixed by the court, guaran-
21 teeing payment of the support ordered in the judgment. For the
22 purposes of this section, "support" may include payment of the
23 expenses of medical, dental, and other health care, child care
24 expenses, and educational expenses. The judgment shall require
25 that 1 or both parents shall obtain or maintain any health care
26 coverage that is available to them at a reasonable cost, as a
27 benefit of employment, for the benefit of the minor children of

1 the parties. If a parent is self-employed and maintains health
2 care coverage, the court shall require the parent to obtain or
3 maintain dependent coverage for the benefit of the minor children
4 of the parties, if available at a reasonable cost.

5 (2) Orders concerning the support of children of the parties
6 shall be enforceable as provided in the support and visitation
7 enforcement act, Act No. 295 of the Public Acts of 1982, being
8 sections 552.601 to 552.650 of the Michigan Compiled Laws.

9 ~~(3) The court, in the judgment or after entry of the judg-~~
10 ~~ment, may waive jurisdiction of any minor children under the age~~
11 ~~of 17 years to the probate court to be governed by the laws of~~
12 ~~this state with respect to dependent and neglected children under~~
13 ~~the age of 17 years.~~

14 Sec. 45. (1) ~~Every bill of~~ EACH complaint filed shall set
15 forth the names and ages of all children of the marriage. ~~, and~~
16 ~~when~~ IF there are children ~~under~~ LESS THAN 17 years of age, a
17 copy of the summons issued in the ~~cause~~ ACTION shall be served
18 upon the ~~the~~ prosecuting attorney of the county where ~~suit~~
19 THE ACTION is commenced, or upon the friend of the court in those
20 counties ~~having a population of 500,000 or more~~ which have a
21 friend of the court. The prosecuting attorney or friend of the
22 court ~~so served~~ shall enter ~~his~~ AN appearance in the ~~cause,~~
23 ~~and when, in his~~ CASE. IF, IN THE judgment OF THE PROSECUTING
24 ATTORNEY OR THE FRIEND OF THE COURT, the interest of the children
25 or the public good ~~so~~ requires, ~~he~~ THE PROSECUTING ATTORNEY
26 OR FRIEND OF THE COURT shall introduce evidence and appear at the
27 hearing and oppose the granting of a decree of divorce. In any

1 case ~~wherein~~ IN WHICH there are no children the issue of ~~such~~
 2 THE marriage ~~under the age of~~ LESS THAN 17 years OF AGE, when
 3 it ~~shall appear~~ APPEARS to the court that the public good ~~so~~
 4 requires, an order may be entered requiring the prosecuting
 5 attorney or friend of the court ~~in counties having a population~~
 6 ~~of 500,000 or more~~ to appear and oppose the granting of a decree
 7 of divorce. For ~~every~~ EACH case which the prosecuting attorney
 8 investigates, and in which he OR SHE appears by and with the con-
 9 sent of the court, ~~he~~ THE PROSECUTING ATTORNEY shall receive
 10 the sum of \$5.00, to be paid by the county treasurer upon the
 11 certificate of the ~~circuit~~ DOMESTIC RELATIONS judge that ~~such~~
 12 THE services have been performed. ~~Nothing in this act contained~~

13 (2) THIS SECTION shall ~~be construed as preventing~~ NOT PRE-
 14 VENT A prosecuting ~~attorneys~~ ATTORNEY or ~~their partners~~ A
 15 PARTNER OF A PROSECUTING ATTORNEY from acting as ~~solicitors or~~
 16 counsel for either party to the ~~suit~~ ACTION. If a prosecuting
 17 attorney or friend of the court is in any way interested as
 18 ~~solicitor or~~ counsel for either of the parties, the court shall
 19 appoint ~~some~~ A reputable attorney to perform the services of
 20 prosecuting attorney, as provided in this ~~act~~ CHAPTER, who
 21 shall receive the compensation provided for ~~such~~ THE service.

22 Section 2. This amendatory act shall take effect January 1,
 23 1990.

24 Section 3. This amendatory act shall not take effect unless
 25 Senate Bill No. _____ or House Bill No. 4567 (request
 26 no. 01659'89) of the 85th Legislature is enacted into law.