

HOUSE BILL No. 5990

July 2, 1998, Introduced by Reps. Griffin, Voorhees, Whyman, Llewellyn, Perricone, Geiger, Sikkema, Bodem, Brackenridge, McNutt, DeVuyst, Callahan, Lowe, Jansen, Horton, Law, Nye, Walberg, Kukuk, Green, Rocca, Sanborn, Jellema, Fitzgerald, Jelinek, Birkholz, Baade, Dalman, McManus, Gernaat, Varga, Harder, McBryde, Raczkowski and Scranton and referred to the Committee on Judiciary.

A bill to amend 1846 RS 84, entitled
"Of divorce,"
by amending sections 6 and 7 (MCL 552.6 and 552.7) and by adding
sections 7a, 7b, and 51.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6. (1) A complaint for divorce may be filed in the
2 circuit court upon the allegation that there has been a breakdown
3 of the marriage relationship to the extent that the objects of
4 matrimony have been destroyed and there remains no reasonable
5 likelihood that the marriage can be preserved. In the complaint
6 the plaintiff shall make no other explanation of the grounds for
7 divorce than by the use of the statutory language.

8 (2) The defendant, by answer, may either admit the grounds
9 for divorce alleged or deny them without further explanation. An
10 admission by the defendant of the grounds for divorce may be

1 considered by the court but is not binding on the court's
2 determination.

3 (3) The court shall enter a judgment dissolving the bonds of
4 matrimony if evidence is presented in open court that there has
5 been a breakdown in the marriage relationship to the extent that
6 the objects of matrimony have been destroyed and there remains no
7 reasonable likelihood that the marriage can be preserved.

8 (4) THIS SECTION DOES NOT APPLY TO A COVENANT MARRIAGE.

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

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

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

24 (4) If evidence is presented in open court that there has
25 been a breakdown in the marriage relationship to the extent that
26 the objects of matrimony have been destroyed and there remains no

1 reasonable likelihood that the marriage can be preserved, the
2 court shall enter:

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

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

7 (5) THIS SECTION DOES NOT APPLY TO A COVENANT MARRIAGE.

8 SEC. 7A. (1) THIS SECTION APPLIES ONLY TO A COVENANT
9 MARRIAGE.

10 (2) A COMPLAINT FOR DIVORCE MAY BE FILED IN THE CIRCUIT
11 COURT. IN THE COMPLAINT, THE PLAINTIFF SHALL MAKE NO OTHER
12 EXPLANATION OF THE GROUNDS FOR DIVORCE THAN BY THE USE OF THE
13 APPLICABLE LANGUAGE OF SUBSECTION (4).

14 (3) THE DEFENDANT, BY ANSWER, MAY EITHER ADMIT THE GROUNDS
15 FOR DIVORCE ALLEGED OR DENY THEM WITHOUT FURTHER EXPLANATION. AN
16 ADMISSION BY THE DEFENDANT OF THE GROUNDS FOR DIVORCE MAY BE CON-
17 SIDERED BY THE COURT BUT IS NOT BINDING ON THE COURT'S
18 DETERMINATION.

19 (4) THE COURT SHALL ENTER A JUDGMENT DISSOLVING THE BONDS OF
20 MATRIMONY IF THE COURT FINDS THAT THE PLAINTIFF AND DEFENDANT
21 HAVE RECEIVED JOINT OR INDIVIDUAL MARRIAGE COUNSELING FROM A MIN-
22 ISTER OR MARRIAGE AND FAMILY THERAPIST AND THAT 1 OR MORE OF THE
23 FOLLOWING APPLY:

24 (A) THE DEFENDANT HAS COMMITTED ADULTERY.

25 (B) THE DEFENDANT HAS COMMITTED A FELONY AND HAS BEEN SEN-
26 TENCED TO IMPRISONMENT FOR NOT LESS THAN 5 YEARS.

1 (C) THE DEFENDANT ABANDONED THE MATRIMONIAL DOMICILE NOT
2 LESS THAN 1 YEAR BEFORE THE COMPLAINT WAS FILED, WAS REQUESTED BY
3 THE PLAINTIFF DURING THAT PERIOD TO RETURN TO THE MATRIMONIAL
4 DOMICILE, AND DID NOT AT ANY TIME DURING THAT PERIOD RETURN TO
5 THE MATRIMONIAL DOMICILE.

6 (D) THE DEFENDANT HAS PHYSICALLY OR SEXUALLY ABUSED THE
7 PLAINTIFF OR A CHILD OF 1 OR BOTH OF THE SPOUSES.

8 (E) THE SPOUSES BY MUTUAL CONSENT HAVE BEEN LIVING SEPARATE
9 AND APART CONTINUOUSLY WITHOUT RECONCILIATION FOR NOT LESS THAN 2
10 YEARS.

11 (F) IF THERE ARE NO MINOR CHILDREN OF THE MARRIAGE, THE
12 SPOUSES BY MUTUAL CONSENT HAVE BEEN LIVING SEPARATE AND APART
13 CONTINUOUSLY WITHOUT RECONCILIATION FOR NOT LESS THAN 1 YEAR
14 AFTER ENTRY OF A JUDGMENT FOR SEPARATE MAINTENANCE.

15 (G) IF THERE IS A MINOR CHILD OF THE MARRIAGE, THE SPOUSES
16 BY MUTUAL CONSENT HAVE BEEN LIVING SEPARATE AND APART CONTINU-
17 OUSLY WITHOUT RECONCILIATION FOR NOT LESS THAN 1 YEAR AFTER ENTRY
18 OF A JUDGMENT OF SEPARATE MAINTENANCE.

19 (H) IF A JUDGMENT OF SEPARATE MAINTENANCE HAS BEEN ENTERED
20 BASED ON ABUSE OF A CHILD OF 1 OR BOTH OF THE SPOUSES, THE
21 SPOUSES BY MUTUAL CONSENT HAVE BEEN LIVING SEPARATE AND APART
22 CONTINUOUSLY WITHOUT RECONCILIATION FOR NOT LESS THAN 1 YEAR
23 AFTER ENTRY OF THE JUDGMENT OF SEPARATE MAINTENANCE.

24 SEC. 7B. (1) THIS SECTION APPLIES ONLY TO A COVENANT
25 MARRIAGE.

26 (2) AN ACTION FOR SEPARATE MAINTENANCE MAY BE FILED IN THE
27 CIRCUIT COURT IN THE SAME MANNER AND ON THE SAME GROUNDS AS AN

1 ACTION FOR DIVORCE UNDER SECTION 7A(4)(A) TO (E). IN THE
2 COMPLAINT, THE PLAINTIFF SHALL MAKE NO OTHER EXPLANATION OF THE
3 GROUNDS FOR SEPARATE MAINTENANCE THAN BY USE OF THE APPLICABLE
4 LANGUAGE OF SECTION 7A(4)(A) TO (E).

5 (3) THE DEFENDANT, BY ANSWER, MAY EITHER ADMIT THE GROUNDS
6 FOR SEPARATE MAINTENANCE ALLEGED OR DENY THEM WITHOUT FURTHER
7 EXPLANATION. AN ADMISSION BY THE DEFENDANT OF THE GROUNDS FOR
8 SEPARATE MAINTENANCE MAY BE CONSIDERED BY THE COURT BUT IS NOT
9 BINDING ON THE COURT'S DETERMINATION. THE DEFENDANT MAY ALSO
10 FILE A COUNTERCLAIM FOR DIVORCE.

11 (4) IF THE DEFENDANT FILES A COUNTERCLAIM FOR DIVORCE, THE
12 ALLEGATION CONTAINED IN THE PLAINTIFF'S COMPLAINT AS TO THE
13 GROUNDS FOR SEPARATE MAINTENANCE MAY BE CONSIDERED BY THE COURT
14 BUT IS NOT BINDING ON THE COURT'S DETERMINATION.

15 (5) THE COURT SHALL ENTER AN ORDER UNDER SUBSECTION (6) IF
16 THE COURT FINDS THAT THE PLAINTIFF HAS RECEIVED MARRIAGE COUNSEL-
17 ING FROM A MINISTER OR MARRIAGE AND FAMILY THERAPIST AND THAT 1
18 OR MORE OF THE FOLLOWING APPLY:

19 (A) THE DEFENDANT HAS COMMITTED ADULTERY.

20 (B) THE DEFENDANT HAS COMMITTED A FELONY AND HAS BEEN SEN-
21 TENCED TO IMPRISONMENT FOR NOT LESS THAN 5 YEARS.

22 (C) THE DEFENDANT ABANDONED THE MATRIMONIAL DOMICILE NOT
23 LESS THAN 1 YEAR BEFORE THE COMPLAINT WAS FILED, WAS REQUESTED BY
24 THE PLAINTIFF DURING THAT PERIOD TO RETURN TO THE MATRIMONIAL
25 DOMICILE, AND DID NOT AT ANY TIME DURING THAT PERIOD RETURN TO
26 THE MATRIMONIAL DOMICILE.

1 (D) THE DEFENDANT HAS PHYSICALLY OR SEXUALLY ABUSED THE
2 PLAINTIFF OR A CHILD OF 1 OR BOTH OF THE SPOUSES.

3 (E) THE SPOUSES BY MUTUAL CONSENT HAVE BEEN LIVING SEPARATE
4 AND APART CONTINUOUSLY WITHOUT RECONCILIATION FOR NOT LESS THAN 2
5 YEARS.

6 (F) THE SPOUSES' LIVING TOGETHER HAS BECOME UNSUPPORTABLE
7 BECAUSE THE DEFENDANT HABITUALLY ABUSES ALCOHOL OR DRUGS OR HAS
8 ENGAGED IN CRUEL AND OUTRAGEOUS CONDUCT TOWARD THE PLAINTIFF OR A
9 CHILD OF 1 OR BOTH OF THE SPOUSES.

10 (6) IF THE COURT MAKES THE FINDINGS SET FORTH IN SUBSECTION
11 (5), THE COURT SHALL ENTER 1 OF THE FOLLOWING:

12 (A) A JUDGMENT OF SEPARATE MAINTENANCE IF A COUNTERCLAIM FOR
13 DIVORCE HAS NOT BEEN FILED.

14 (B) A JUDGMENT DISSOLVING THE BONDS OF MATRIMONY IF A COUN-
15 TERCLAIM FOR DIVORCE HAS BEEN FILED AND THE REQUIREMENTS OF
16 SECTION 7A ARE MET.

17 (7) THE COURT SHALL NOT ENTER A JUDGMENT OF SUMMARY DISPOSI-
18 TION IN AN ACTION UNDER THIS SECTION.

19 SEC. 51. AS USED IN THIS ACT:

20 (A) "COVENANT MARRIAGE" MEANS A MARRIAGE CONTRACTED OR DES-
21 IGNATED AS A COVENANT MARRIAGE UNDER SECTION 3A OR 3E OF 1887
22 PA 128, MCL 551.103A AND 551.103E, RESPECTIVELY.

23 (B) "MARRIAGE AND FAMILY THERAPIST" AND "MINISTER" MEAN
24 THOSE TERMS AS DEFINED IN SECTION 1 OF 1887 PA 128, MCL 551.101.

25 Enacting section 1. This amendatory act does not take
26 effect unless Senate Bill No. _____ or House Bill

1 No. _____ (request no. 04368'97 a) of the 89th Legislature
2 is enacted into law.