

HOUSE BILL NO. 4782

June 15, 2023, Introduced by Rep. Morgan and referred to the Committee on Government Operations.

A bill to amend 1846 RS 84, entitled "Of divorce," by amending sections 9f, 23, 27, 34, 36, and 37 (MCL 552.9f, 552.23, 552.27, 552.34, 552.36, and 552.37), section 23 as amended by 2009 PA 234, section 27 as amended by 1998 PA 96, section 34 as amended by 1983 PA 211, and section 36 as amended by 2001 PA 107.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9f. ~~No~~**A court shall not take** proofs or testimony ~~shall~~
2 ~~be taken in any case for a~~ divorce **action** until ~~the expiration of~~

1 60 days ~~from~~**after** the ~~time of filing the bill of~~ complaint **is**
 2 **filed**, except ~~where~~**if** the cause for divorce is desertion, or ~~when~~
 3 **if** the testimony is taken conditionally for the purpose of
 4 perpetuating ~~such~~ testimony. In ~~every case where~~**an action for**
 5 **divorce in which** there are dependent minor children under the age
 6 of 18 years, ~~no~~**the court shall not take** proofs or testimony ~~shall~~
 7 ~~be taken in such cases for divorce until the expiration of 6 months~~
 8 ~~from~~**after** the day the bill of complaint is filed. In ~~cases of~~**If**
 9 **there is** unusual hardship or ~~such~~ compelling necessity ~~as shall~~
 10 ~~appear~~**that appeals** to the conscience of the court, ~~upon~~**on**
 11 petition and **a** proper showing, ~~it~~**the court** may take testimony at
 12 any time after ~~the expiration of 60 days from the time of filing~~
 13 ~~the bill of~~**after the** complaint **is filed**. Testimony may be taken
 14 conditionally at any time for the purpose of perpetuating ~~such~~
 15 testimony. ~~When~~**If** the defendant in ~~any case for a~~ divorce **action**
 16 is not domiciled in this state at the time of commencing the ~~suit~~
 17 **action** or ~~shall~~**was** not have been domiciled ~~herein~~**in this state** at
 18 the time the cause for divorce arose, before ~~any decree~~**a judgment**
 19 of divorce ~~shall be~~**is** granted the ~~complainant~~**plaintiff** must prove
 20 that the parties have actually lived and cohabited together as
 21 ~~husband and wife~~**spouses** within this state, or that the ~~complainant~~
 22 **plaintiff** has in good faith resided in this state for 1 year
 23 immediately preceding the filing of the ~~bill of~~ complaint for
 24 divorce.

25 Sec. 23. (1) ~~Upon~~**On** entry of a judgment of divorce or
 26 separate maintenance, if the estate and effects awarded to either
 27 party are insufficient for the suitable support and maintenance of
 28 either party and any children of the marriage who are committed to
 29 the care and custody of either party, the court may also award to

1 either party the part of the real and personal estate of either
2 party and spousal support out of the real and personal estate, to
3 be paid to either party in gross or otherwise as the court
4 considers just and reasonable, after considering the ability of
5 either party to pay and the character and situation of the parties,
6 and all the other circumstances of the case.

7 (2) ~~Upon~~**On** certification by a county department of **health and**
8 human services that a ~~complainant~~**plaintiff** or petitioner in ~~a~~**an**
9 **action or** proceeding under this chapter is receiving public
10 assistance either personally or for children of the marriage,
11 payments received by the friend of the court or the state
12 disbursement unit for the support and education of the children or
13 maintenance of the party ~~shall~~**must** be transmitted to the
14 department of **health and** human services.

15 (3) If the court appoints the friend of the court custodian,
16 receiver, trustee, or escrow agent of assets owned by ~~a husband and~~
17 ~~wife,~~**spouses**, or either of them, the court may fix the amount of
18 the fee for ~~such~~**that** service, to be turned over to the county
19 treasurer and credited to the general fund of the county. The court
20 may hold in contempt a person who fails or refuses to pay a fee
21 ordered under this subsection.

22 (4) As used in this section and section 24, "state
23 disbursement unit" or "SDU" means the entity established in section
24 6 of the office of child support act, 1971 PA 174, MCL 400.236.

25 Sec. 27. If alimony or an allowance for the support and
26 education of the children is awarded to either party, the amount of
27 the alimony or allowance constitutes a lien ~~upon~~**on** the real and
28 personal estate of the adverse party as provided in section 25a of
29 the support and parenting time enforcement act, 1982 PA 295, MCL

1 ~~552.65a.~~ **552.625a.** The court may do 1 or more of the following if
 2 the party defaults on the payment of the amount awarded:

3 (a) Order the sale of the property against which the lien is
 4 adjudged in the same manner and ~~upon~~**on** the same notice as in ~~suits~~
 5 **actions** for the foreclosure of mortgage liens.

6 (b) Award execution for the collection of the judgment.

7 (c) Order the sequestration of the real and personal estate of
 8 either party and may appoint a receiver of the real estate or
 9 personal estate, or both, and cause the personal estate and the
 10 rents and profits of the real estate to be applied to the payment
 11 of the judgment.

12 (d) Award a division between the ~~husband and wife~~**spouses** of
 13 the real and personal estate of either party or of the ~~husband and~~
 14 ~~wife~~**spouses** by joint ownership or right as the court considers
 15 equitable and just.

16 Sec. 34. An action to annul a marriage on the ground that 1 of
 17 the parties was under the age of legal consent, as provided in
 18 section 3 of Act No. 128 of the Public Acts of 1887, being section
 19 ~~551.103 of the Michigan Compiled Laws,~~ **1887 PA 128, MCL 551.103,**
 20 may be brought by the parent or guardian entitled to ~~the~~ custody of
 21 the minor or by the next friend of the minor, but the marriage
 22 ~~shall~~**must** not be annulled on the application of a party who was of
 23 the age of legal consent at the time of the marriage, or ~~when~~**if** it
 24 appears that the parties, after they ~~had~~ attained the age of
 25 consent, ~~had~~ freely cohabited as ~~husband and wife~~**spouses**.

26 Sec. 36. A party to a marriage who, at the time of the
 27 marriage, was not capable in law of contracting and who later
 28 becomes capable in law of contracting may bring an action to annul
 29 the marriage. The court shall not ~~, however,~~ annul the marriage if

1 the court finds that the parties cohabited as ~~husband and wife~~
2 **spouses** after the party became capable in law of contracting.

3 Sec. 37. ~~No~~ **A court shall not annul a** marriage ~~shall be~~
4 ~~annulled~~ on the ground of force or fraud, if it ~~shall appear~~
5 **appears** that, at any time before the commencement of the ~~suit,~~
6 ~~there was a voluntary cohabitation of~~ **action**, the parties
7 **voluntarily cohabited** as ~~husband and wife~~ **spouses**.

8 Enacting section 1. This amendatory act does not take effect
9 unless Senate Joint Resolution ____ or House Joint Resolution F
10 (request no. 00367'23) of the 102nd Legislature becomes a part of
11 the state constitution of 1963 as provided in section 1 of article
12 XII of the state constitution of 1963.