

SENATE BILL No. 331

May 23, 1991, Introduced by Senators EHLERS and CISKY and referred to the Committee on Mental Health, Human Resources and Senior Citizens.

A bill to amend sections 1, 3, 30, 35, and 36 of chapter 84 of the Revised Statutes of 1846, entitled "Of divorce,"

being sections 552.1, 552.3, 552.30, 552.35, and 552.36 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1, 3, 30, 35, and 36 of chapter 84 of
2 the Revised Statutes of 1846, being sections 552.1, 552.3,
3 552.30, 552.35, and 552.36 of the Michigan Compiled Laws, are
4 amended to read as follows:

5 Sec. 1. All marriages ~~which~~ THAT are prohibited by law
6 ~~on account~~ BECAUSE of consanguinity or affinity between the
7 parties, or ~~on account~~ BECAUSE of either of them having a wife
8 or husband then living, ~~and all marriages solemnized when either~~
9 ~~of the parties was insane or an idiot,~~ shall, if solemnized

1 within this state, be absolutely void. ~~The issue of such~~
2 ~~marriage shall be deemed legitimate.~~ FOR A MARRIAGE SOLEMNIZED
3 WHEN EITHER OF THE PARTIES LACKED THE MENTAL CAPACITY TO CONSENT
4 TO THE MARRIAGE, THE MARRIAGE SHALL BE INVALID AND VOID AS OF THE
5 DATE OF THE MARRIAGE, UNLESS THE COURT FINDS THAT THE INTERESTS
6 OF JUSTICE WOULD NOT BE SERVED BY MAKING THE DECREE RETROACTIVE.
7 THE ISSUE OF A MARRIAGE DESCRIBED IN THIS SECTION ARE LEGITIMATE.

8 Sec. 3. ~~When a marriage is supposed to be void, or the~~
9 ~~validity thereof is doubted, for any of the causes mentioned in~~
10 ~~the 2 preceding sections; either party, excepting in the cases~~
11 ~~where a contrary provision is hereinafter made, may file a peti-~~
12 ~~tion or bill in the circuit court of the county where the par-~~
13 ~~ties, or 1 of them, reside, or in the court of chancery, for~~
14 ~~annulling the same, and such petition or bill shall be filed, and~~
15 ~~proceedings shall be had thereon, as in the case of a petition or~~
16 ~~bill filed in said court for a divorce; and upon due proof of the~~
17 ~~nullity of the marriage, it shall be declared void by a decree or~~
18 ~~sentence of nullity.~~

19 (1) IF THE VALIDITY OF A MARRIAGE IS DOUBTED FOR 1 OR MORE
20 OF THE REASONS GIVEN IN SECTION 1 OR 2, A PARTY MAY FILE A PETI-
21 TION WITH THE CIRCUIT COURT IN THE COUNTY WHERE EITHER OF THE
22 PARTIES RESIDES TO ANNUL THE MARRIAGE. THE COURT SHALL PROCEED
23 WITH THE PETITION TO ANNUL IN THE SAME MANNER AS IN A DIVORCE
24 PROCEEDING AND, UPON RECEIPT OF SATISFACTORY PROOF, ORDER AN
25 ANNULMENT OF THE MARRIAGE.

26 (2) A PETITION FOR ANNULMENT BECAUSE OF THE ALLEGED MENTAL
27 INCAPACITY OF EITHER PARTY TO CONSENT TO THE MARRIAGE SHALL BE

1 COMMENCED NOT LATER THAN 90 DAYS AFTER THE PETITIONER OBTAINED
2 KNOWLEDGE OF THE GROUNDS FOR ANNULMENT, BUT IN NO EVENT SHALL
3 SUCH AN ANNULMENT BE GRANTED AFTER THE DEATH OF EITHER PARTY TO
4 THE MARRIAGE.

5 Sec. 30. Upon the dissolution of a marriage on account of
6 ~~the non-age, insanity or idiocy~~ INSUFFICIENT AGE OR LACK OF
7 MENTAL CAPACITY of either party, the issue of the marriage shall
8 be ~~deemed~~ CONSIDERED to be in all respects the legitimate issue
9 of the parent who, at the time of the marriage, was capable of
10 contracting.

11 Sec. 35. A ~~bill~~ PETITION to annul a marriage on the
12 ground of ~~insanity or idiocy,~~ MENTAL INCAPACITY may be
13 ~~exhibited~~ FILED by any person admitted by the court to prose-
14 cute as the next friend of ~~such idiot or lunatic~~ THE MENTALLY
15 INCAPACITATED PERSON.

16 Sec. 36. The marriage of a ~~lunatic~~ MENTALLY INCAPACITATED
17 PERSON may also be ~~declared void, upon the application of the~~
18 ~~lunatic, after the restoration of reason; but in such case, no~~
19 ~~sentence of nullity shall be pronounced, if it shall appear~~
20 ANNULLED UPON THE FILING OF A PETITION BY THAT PERSON AFTER THE
21 PERSON WAS RESTORED TO A SOUND MIND. HOWEVER, AN ORDER ANNULING
22 THE MARRIAGE SHALL NOT BE ENTERED IF IT APPEARS that the parties
23 freely cohabited as husband and wife ~~—~~ after the ~~lunatic~~
24 MENTALLY INCAPACITATED PERSON was restored to a sound mind.