



# SENATE BILL No. 306

February 2, 1993, Introduced by Senators BOUCHARD and MC MANUS and referred to the Committee on Family Law, Criminal Law, and Corrections.

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~~ ARE  
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  
4 ALIMONY, THE COURT SHALL SPECIFY THE FINANCIAL RESPONSIBILITY OF  
5 EACH PARTY TO MEET THE EXPENSES OF MAINTAINING THE FAMILY  
6 DOMICILE. AS USED IN THIS SUBSECTION, "EXPENSES OF MAINTAINING  
7 THE FAMILY DOMICILE" INCLUDES, BUT IS NOT LIMITED TO, THE COST OF  
8 ALL OF THE FOLLOWING:

- 9 (A) MORTGAGE OR RENT.
- 10 (B) AUTOMOBILE LOAN.
- 11 (C) HOME AND AUTOMOBILE INSURANCE.
- 12 (D) HEALTH AND LIFE INSURANCE.
- 13 (E) FOOD.
- 14 (F) UTILITIES.
- 15 (G) CONSUMER LOANS AND OTHER LOANS NECESSARY TO PRESERVE THE  
16 MARITAL ESTATE.

17 (H) CREDIT CARD DEBT.

18 (2) THE COURT may award costs against either party and award  
19 execution for ~~the same,~~ COSTS or ~~it may~~ direct ~~such~~ THAT  
20 costs ~~to~~ be paid out of ~~any~~ property sequestered, ~~or~~ in the  
21 power of the court, or 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~~  
26 DOES not affect alimony payments ~~which~~ THAT have accrued ~~prior~~  
27 ~~to that~~ BEFORE 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 siders 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, THE CONTRI-  
14 BUTIONS OF THE PARTIES TO THE OBJECTS OF THE MARRIAGE, AND THE  
15 CAUSES FOR THE MARRIAGE'S BREAKDOWN.

16       (B) EACH PARTY'S AGE AND PHYSICAL, MENTAL, EMOTIONAL, EDUCA-  
17 TIONAL, AND OCCUPATIONAL CONDITION, AND REASONABLE PROSPECTS FOR  
18 CHANGE.

19       (C) THE FINANCIAL RESOURCES OF EACH PARTY, TAKING INTO CON-  
20 sideration all of the following:

21       (i) LEGAL RESPONSIBILITY FOR SUPPORT OF OTHERS OR ENTITLE-  
22 MENT TO SUPPORT FROM OTHERS.

23       (ii) THE SOURCE OF, AMOUNT OF, CONTRIBUTIONS TO, AND PRODUC-  
24 TIVITY OF PROPERTY.

25       (iii) INCOME.

26       (D) THE EARNING CAPACITY OF EACH PARTY, TAKING INTO ACCOUNT  
27 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, OR  
4 BOTH, TO DEVELOP THOSE SKILLS.

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

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

11        (E) THE EXTENT TO WHICH THE PARTY SEEKING ALIMONY CONTRIB-  
12 UTED TO THE ATTAINMENT OF EDUCATION, TRAINING, A CAREER POSITION,  
13 OR AN OCCUPATIONAL LICENSE BY THE OTHER PARTY TO THE EXTENT NOT  
14 CONSIDERED IN THE DIVISION OF THE MARITAL ESTATE.

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

19        (G) THE STANDARD OF LIVING ESTABLISHED DURING THE MARRIAGE,  
20 AND THE REASONABLE NEEDS OF EACH PARTY.

21        (H) THE TAX LIABILITIES OR BENEFITS FOR EACH PARTY THAT  
22 WOULD RESULT FROM THE AWARD OF ALIMONY.

23        (2) IN CONSIDERING THE FACTORS FOR AN AWARD OF ALIMONY UNDER  
24 THIS SECTION, THE COURT SHALL ATTEMPT, TO THE EXTENT POSSIBLE, TO  
25 AWARD ALIMONY IN A MANNER TO AVOID NECESSITATING THE DISSIPATION  
26 OF THE MARITAL ESTATE IN ORDER TO SUPPORT EITHER PARTY OR  
27 CHILDREN OF THE MARRIAGE. THE COURT MAY REVIEW THE AMOUNT OF

1 ALIMONY OR THE NEED FOR ALIMONY AT ANY TIME UPON THE MOTION OF  
2 EITHER PARTY.

3 (3) ~~-(2)-~~ Upon certification by a county department of  
4 social services that a complainant or petitioner in a proceeding  
5 under this chapter is receiving public assistance either person-  
6 ally or for children of the marriage, payments received by the  
7 friend of the court for the support and education of ~~-such-~~ THE  
8 children or maintenance of the party shall be transmitted to the  
9 state department of social services.

10 (4) ~~-(3)-~~ To reimburse the county for the cost of handling  
11 alimony or support money payments, the court shall order the pay-  
12 ment of a service fee of \$2.00 per month, payable semiannually on  
13 January 2 and July 2 thereafter, to the friend of the court. The  
14 service fee shall be paid by the person ordered to pay the ali-  
15 mony or support money. The service fee shall be computed from  
16 the beginning date of the alimony or support order and shall con-  
17 tinue while the alimony or support order is operative. The serv-  
18 ice fee shall be paid 6 months in advance on each due date,  
19 except for the first payment, which shall be paid at the same  
20 time the alimony or support order is filed, and shall cover the  
21 period of time from that month until the next calendar due date.  
22 ~~Every~~ EACH order or judgment ~~which~~ THAT provides for the pay-  
23 ment of temporary or permanent alimony or support money ~~which~~  
24 ~~requires~~ REQUIRING collection by the friend of the court shall  
25 provide for the payment of the service fee. ~~Any such~~ AN order  
26 or judgment for the payment of temporary or permanent alimony or  
27 support money, entered before ~~the effective date of this 1983~~

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