



SENATE BILL No. 321

February 2, 1993, Introduced by Senator EHLERS and referred to the Committee on Family Law, Criminal Law, and Corrections.

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 are~~ IF SOLEMNIZED WITHIN THIS
6 STATE, A MARRIAGE THAT IS prohibited by law ~~on account~~ BECAUSE
7 of consanguinity or affinity between the parties, or ~~on account~~
8 ~~of~~ BECAUSE either of them ~~having~~ HAS a wife or husband then
9 living, ~~and all marriages solemnized when either of the parties~~

1 ~~was insane or an idiot, shall, if solemnized within this state,~~
2 ~~be~~ IS absolutely void. ~~The issue of such marriage shall be~~
3 ~~deemed legitimate.~~ IF A MARRIAGE IS SOLEMNIZED WHEN EITHER OF
4 THE PARTIES LACKED THE MENTAL CAPACITY TO CONSENT TO THE MAR-
5 RIAGE, THE MARRIAGE IS INVALID AND VOID AS OF THE DATE OF THE
6 MARRIAGE, UNLESS THE COURT FINDS THAT THE INTERESTS OF JUSTICE
7 WOULD NOT BE SERVED BY MAKING THE DECREE RETROACTIVE. A CHILD OF
8 A MARRIAGE DESCRIBED IN THIS SECTION IS LEGITIMATE.

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

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

1 (2) A PETITION FOR ANNULMENT BECAUSE OF THE ALLEGED MENTAL
2 INCAPACITY OF EITHER PARTY TO CONSENT TO THE MARRIAGE SHALL BE
3 COMMENCED NOT LATER THAN 90 DAYS AFTER THE PETITIONER OBTAINED
4 KNOWLEDGE OF THE GROUNDS FOR ANNULMENT, BUT IN NO EVENT SHALL
5 SUCH AN ANNULMENT BE GRANTED AFTER THE DEATH OF EITHER PARTY TO
6 THE MARRIAGE.

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

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

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