



**House  
Legislative  
Analysis  
Section**

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## **CAPACITY TO MARRY**

**House Bill 4185**

**Sponsor: Rep. Mary Schroer**

**Committee: Judiciary and Civil Rights**

**Complete to 8-15-95**

### **A SUMMARY OF HOUSE BILL 4185 AS INTRODUCED 1-30-95**

The bill would amend the statute entitled "Of marriage and the solemnization thereof" to update language and to set requirements as to the mental capacity necessary to consent to marriage. An individual would be presumed to have the capacity to consent unless he or she had a guardian appointed under either the Mental Health Code or the Revised Probate Code, and there had been a specific finding that he or she lacked the mental capacity to consent to marriage. The individual would be considered to have the capacity to consent as long as he or she understood the nature, duties, and responsibilities of the marriage relationship.

The bill would also repeal a section of law which:

\*\* makes it a felony for a "person of sound mind" to knowingly marry an "insane person or idiot or person who has been confined as a feeble-minded imbecile or insane patient, or who has been so adjudged insane, feeble-minded or an imbecile" and also makes it a felony for anyone to advise, aid, abet, cause, procure or assist in procuring any such marriage;

\*\* makes it a felony for persons afflicted with syphilis or gonorrhea to marry;

\*\* validates marriages "contracted between white persons and those wholly or in part of African descent" and allows the children of such marriages to be treated as legitimate offspring of the marriage;

\*\* states that an "insane person, idiot, or person who has been afflicted with syphilis or gonorrhea" or any person who has been confined to a mental institution as a "feeble-minded, imbecile or insane patient" is not capable of legally contracting marriage unless he or she files a "verified certificate from 2 regularly licensed physicians" stating that individual has been completely cured of his or her illness and "that there is no probability that such person will transmit any of such defects or disabilities to the issue of such marriage."

MCL 551.2 and 551.6

House Bill 4185 (8-15-95)