



House
Legislative
Analysis
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END NO-FAULT DIVORCE

House Bill 4432

Sponsor: Rep. Jessie Dalman

Committee: Judiciary and Civil Rights

Complete to 8-7-95

A SUMMARY OF HOUSE BILL 4432 AS INTRODUCED 2-16-95

The bill would amend Chapter 84 of the Revised Statutes of 1846, entitled "Of divorce" (MCL 552.6 and 552.7), to change the grounds upon which persons in Michigan may legally end their marriages. Currently Michigan law allows for no-fault divorces, meaning that a couple may be divorced upon an allegation and evidentiary support of the allegation that there has been a breakdown of the marriage relationship to the extent that the objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved. The couple need not show any further grounds to support the entry of a judgement of divorce.

The bill would allow married couples without dependent children to obtain a divorce where both parties agree that there has been a breakdown of the marital relationship to the extent that the objects of matrimony have been destroyed and there remains no likelihood that the marriage can be preserved. In cases where the married couple has dependent children or where one spouse objects to the divorce, the party seeking the divorce would have to prove by a preponderance of the evidence that: 1) during the marriage, the other party committed adultery (defined in the bill as voluntary sexual intercourse with a person other than the accused's spouse) or deviate sexual intercourse (defined as bestiality, necrophilia, and oral or anal sex with a person other than the accused's spouse); 2) the other party was physically incompetent at the time of the marriage; 3) the other party was sentenced to prison for three or more years (a subsequent pardon or other alteration of the sentence would not subvert a divorce granted on this ground); 4) the other party deserted the person seeking the divorce for two or more years; 5) the other party habitually abuses alcohol or controlled substances; 6) the other party has treated the person seeking the divorce with extreme cruelty.

As with the current law, the pleadings may limit the explanation of the grounds for divorce to the statutory language rather than requiring that they be alleged with specificity. Further, the court would be able to accept or ignore an admission made by the accused party and the accused could respond to the claim for divorce with his or her own claim based on the grounds listed above.

Under the bill, the same restrictions would apply to actions for separate maintenance. In an action for separate maintenance, where evidence sufficient to allow the granting of a divorce has been presented, the court could grant a judgement of divorce where the accused party has filed a counter-claim for divorce or enter a judgement of separate maintenance where no counter-claim for divorce has been filed.

House Bill 4432 (8-7-95)