



# HOUSE BILL No. 4432

February 16, 1995, Introduced by Reps. Dalman, Horton, Perricone, Dolan, Voorhees, Kukuk, Green, Law, DeLange, Ryan, Gernaat, Whyman, Cropsey, Jersevic and Goschka and referred to the Committee on Judiciary and Civil Rights.

A bill to amend sections 6 and 7 of chapter 84 of the Revised Statutes of 1846, entitled "Of divorce," being sections 552.6 and 552.7 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 6 and 7 of chapter 84 of the Revised  
2 Statutes of 1846, being sections 552.6 and 552.7 of the Michigan  
3 Compiled Laws, are amended to read as follows:

4 Sec. 6. (1) A complaint for divorce may be filed in the  
5 circuit court ~~upon the allegation~~ UNDER ANY OF THE FOLLOWING  
6 CIRCUMSTANCES:

7 (A) IF NO DEPENDENT CHILDREN OF THE MARRIAGE RESIDE WITH  
8 EITHER OF THE PARTIES AND BOTH PARTIES TO THE MARRIAGE AGREE, I  
9 OR BOTH PARTIES SHALL ALLEGE that there has been a breakdown of

1 the marriage relationship to the extent that the objects of  
2 matrimony have been destroyed and there remains no reasonable  
3 likelihood that the marriage can be preserved.

4 (B) IF A DEPENDENT CHILD OF THE MARRIAGE RESIDES WITH A  
5 PARTY OR 1 OF THE PARTIES OBJECTS TO THE DIVORCE, 1 OF THE PAR-  
6 TIES SHALL ALLEGE 1 OR MORE OF THE FOLLOWING:

7 (i) THE OTHER PARTY HAS COMMITTED ADULTERY OR DEVIATE SEXUAL  
8 INTERCOURSE DURING THE MARRIAGE.

9 (ii) THE OTHER PARTY WAS PHYSICALLY INCOMPETENT AT THE TIME  
10 OF THE MARRIAGE.

11 (iii) THE OTHER PARTY WAS SENTENCED TO IMPRISONMENT FOR 3 OR  
12 MORE YEARS. AFTER A DIVORCE IS GRANTED BASED UPON THIS SUBDIVI-  
13 SION, A PARDON OR OTHER ALTERATION OF THE PARTY'S CONVICTION OR  
14 SENTENCE DOES NOT RESTORE THE MARRIAGE.

15 (iv) THE OTHER PARTY DESERTED THE PARTY FOR 2 OR MORE  
16 YEARS.

17 (v) THE OTHER PARTY HABITUALLY USES AND ABUSES ALCOHOL OR A  
18 CONTROLLED SUBSTANCE.

19 (vi) THE PARTY IS A VICTIM OF EXTREME CRUELTY BY THE OTHER  
20 PARTY.

21 (2) In the complaint, the plaintiff ~~shall make no other~~  
22 MAY LIMIT THE explanation of the grounds for divorce ~~than by the~~  
23 ~~use of~~ TO the statutory language. ~~(2)~~ The defendant, by  
24 answer, may either admit the grounds for divorce alleged, ~~or~~  
25 deny them without further explanation, OBJECT TO AN ALLEGATION  
26 MADE UNDER SUBSECTION (1)(A), OR COUNTERCLAIM BASED ON A GROUND  
27 PERMITTED UNDER THIS SECTION. ~~An~~ THE COURT MAY CONSIDER AN

1 admission by the defendant of the grounds for divorce, ~~may be~~  
2 ~~considered by the court~~ but is not ~~binding on the court's~~  
3 ~~determination~~ BOUND BY IT.

4 (3) The court shall enter a judgment ~~dissolving the bonds~~  
5 ~~of matrimony~~ OF DIVORCE if evidence is presented in open court  
6 that ~~there has been a breakdown in the marriage relationship to~~  
7 ~~the extent that the objects of matrimony have been destroyed and~~  
8 ~~there remains no reasonable likelihood that the marriage can be~~  
9 ~~preserved~~ BOTH PARTIES TO THE MARRIAGE AGREE WITH THE ALLEGATION  
10 MADE UNDER SUBSECTION (1)(A) OR THAT PROVES BY A PREPONDERANCE OF  
11 THE EVIDENCE AN ALLEGATION MADE UNDER SUBSECTION (1)(B).

12 (4) AS USED IN THIS SECTION:

13 (A) "ADULTERY" MEANS SEXUAL INTERCOURSE VOLUNTARILY PER-  
14 FORMED BY THE ACCUSED PARTY WITH AN INDIVIDUAL OTHER THAN HIS OR  
15 HER SPOUSE. FOR THE PURPOSE OF THIS SECTION, SEXUAL INTERCOURSE  
16 OCCURS UPON ANY PENETRATION, HOWEVER SLIGHT.

17 (B) "DEVIATE SEXUAL INTERCOURSE" MEANS SEXUAL CONDUCT VOLUN-  
18 TARILY PERFORMED BY THE ACCUSED PARTY WITH AN INDIVIDUAL OTHER  
19 THAN HIS OR HER SPOUSE THAT INCLUDES, BUT IS NOT LIMITED TO, CON-  
20 TACT BETWEEN THE PENIS AND ANUS, THE MOUTH AND PENIS, OR THE  
21 MOUTH AND VULVA; OR WITH AN ANIMAL OR DEAD HUMAN BODY.

22 Sec. 7. (1) An action for separate maintenance may be filed  
23 in the circuit court SUBJECT TO THE SAME RESTRICTIONS, in the  
24 same manner, and on the same grounds as an action for divorce.

25 (2) In the complaint, the plaintiff ~~shall make no other~~  
26 MAY LIMIT THE explanation of the grounds for separate maintenance  
27 ~~than by use of~~ TO the statutory language. ~~(2)~~ The defendant,

1 by answer, may either admit the grounds for separate maintenance  
2 alleged or deny them without further explanation. ~~An~~ THE COURT  
3 MAY CONSIDER AN admission by the defendant of the grounds for  
4 separate maintenance, ~~may be considered by the court~~ but is not  
5 ~~binding on the court's determination~~ BOUND BY IT. The  
6 defendant may also file a counterclaim for divorce.

7 (3) If the defendant files a counterclaim for divorce, THE  
8 COURT MAY CONSIDER the allegation contained in the plaintiff's  
9 complaint as to the grounds for separate maintenance, ~~may be~~  
10 ~~considered by the court~~ but is not ~~binding on the court's~~  
11 ~~determination~~ BOUND BY IT.

12 (4) If evidence is presented in open court that ~~there has~~  
13 ~~been a breakdown in the marriage relationship to the extent that~~  
14 ~~the objects of matrimony have been destroyed and there remains no~~  
15 ~~reasonable likelihood that the marriage can be preserved~~ WOULD  
16 ALLOW ENTRY OF A JUDGMENT OF DIVORCE UNDER SECTION 6 OF THIS  
17 CHAPTER, the court shall enter 1 OF THE FOLLOWING:

18 (a) A judgment of separate maintenance if a counterclaim for  
19 divorce has not been filed.

20 (b) A judgment ~~dissolving the bonds of matrimony~~ OF  
21 DIVORCE if a counterclaim for divorce has been filed.